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The American Political Science Review

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The American Political Science Review

VOL. XXXVIII AUGUST, 1944 NO. 4

POLITICS AND ETHICS

JOHN H. HALLOWELL

Duke University

In a recent article in this REVIEW, a social anthropologist, Professor W. F. Whyte, challenges American political scientists to "leave ethics to the philosophers and concern themselves primarily with a description and analysis of political behavior."[1] Only in this way, the author contends, can the study of politics become truly scientific and not only justify its name but fulfill its function as an important body of knowledge. The challenge presented is not a new, but a vital, one with which all political scientists must inevitably be concerned. For in the answer to it is involved not only the fate of political science as a significant body of knowledge, but, conceivably as well, the very nature of the political behavior that Whyte challenges us to describe with an objectivity divorced from all judgments of value.

In recent times, the point of view urged by Whyte has been perhaps most notably embodied in the writings of Pareto.[2] But many eminent American political scientists have seriously probed the problem of methodology in politics[3] and have arrived at conclusions

[1] "A Challenge to Political Scientists," in the issue of Aug., 1943, at p. 697.

[2] *The Mind and Society* (1935). See also L. J. Henderson, *Pareto's General Sociology* (1935).

[3] See, for example, Munroe Smith, "The Domain of Political Science," *Political Science Quarterly* (Mar., 1886), pp. 1–9; L. S. Rowe, "Problems of Political Science," *Annals of the American Academy of Political and Social Science* (Sept., 1897), pp. 165–186; C. E. Merriam, "The Present State of the Study of Politics," in this REVIEW (May, 1921), pp. 173–185; H. J. Ford, "The Scope of Political Science," *Proceedings of the American Political Science Association*, II (1905), pp. 198–207; J. A. Fairlie, "Politics and Science," *Scientific Monthly* (Jan., 1924), pp. 18–37; H. E. Barnes, *The History and Prospects of the Social Sciences* (1925); S. A. Rice, *Quantitative Methods in Politics* (1928); H. D. Lasswell, *Psychopathology and Politics* (1930); H. D. Lasswell, *Politics: Who Gets What, When, How?* (1936); C. E. Merriam, *Political Power: Its Composition and Incidence* (1934); S. A. Rice (ed.), *Methods in*

similar to those urged upon us again by the author of this more recent challenge. Although they may have failed to achieve the "objectivity" which Whyte believes requisite to a "true" science of politics, American political scientists, particularly since the turn of the century, have become increasingly positivistic, not only in their methodological thinking, but in their descriptive studies.

Writing in 1928, for example, William B. Munro declared: "Political science, to become a science, should first of all obtain a decree of divorce from the philosophers, the lawyers, and the psychologists with whom it has long been in the status of a polygamous companionate marriage to the detriment of its own quest for truth."[4] And in the same year Stuart Rice was urging political scientists to leave philosophy to the philosophers and to concentrate their attention upon a description of the techniques and procedures of politics, particularly those which could be described and analyzed statistically. A political science that failed to do so, Rice insisted, could never be a true science of government, for inevitably it would lead to "a confusion of ends or values with means."[5]

Many others, too numerous to mention (or too well known to political scientists to require mention), had reached, or have since reached, the same or similar conclusions. Perhaps most representative of the point of view that insists that the study of politics can be or become scientific only when the study of means is divorced sharply from a consideration of ends is G. E. G. Catlin's *Science and Method of Politics*. In this book Catlin has urged upon political scientists the adoption of the fiction of "political man" in order that they might achieve an understanding of politics comparable to that which, Catlin insists, the economist achieves of economic activity through the use of the fiction of "economic man." Reasoning from analogy with the natural sciences, Catlin insists that it is no more the function of the political scientist to evaluate the good or bad consequences of particular techniques than it is the function of the chemist, *qua* chemist, to pass ethical judgments upon the use which other men make of chemical knowledge and skill. "It is

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Social Science; A Case Book (1931); C. J. Friedrich, *Constitutional Government and Democracy* (1941), particularly Chap. 25. This list is by no means exhaustive, but serves to indicate that the problem of methodology has not been neglected.

[4] W. B. Munro, "Physics and Politics—An Old Analogy Revised," in this REVIEW (1928), Vol. 22, pp. 1–11.

[5] S. A. Rice, *Quantitative Methods in Politics* (1928), p. 14.

not for the chemist," he has declared, "to delay his discoveries by considering whether men will put them to use in the preparation of healing drugs or in the manufacture of destructive bombs. His discoveries at least are a way to better things for those who will so use them. So too here; a political science is desirable in itself. If there be such a science, it may be expected to show us what will result from what, but it cannot be expected to tell us whether the results will be good. It is for the use of both the wicked and the virtuous, of the just and the unjust."[6]

Many American political scientists have reached this same conclusion and are actively seeking to develop new concepts and research techniques with which to implement their methodological conclusions. Many, therefore, will be surprised to be challenged to do what, in their opinion, they are already doing or seeking to do. As a consequence, the challenge latent in Whyte's argument is not, as I see it, a challenge to become more scientific, but rather a challenge to reëxamine the methodological conclusions many of us have already accepted as valid. Are we right in believing that the study of politics can or should be approached with a "scientific" detachment divorced from all ethical considerations? Have we been traveling the right road in seeking to "emancipate" ourselves from history, philosophy, law, and ethics? Is the kind of truth which we seek as political scientists so specialized and particular that we neither require nor can use insights provided by historians, students of legal history or theory, or philosophers?

That some of us have serious doubts as to the wisdom of our former preoccupation with politics as a political process to be examined with an a-moral, "scientific" detachment is attested by the fact—which Whyte notes with regret—that "when the American form of government and our democratic way of life hang in the balance of armed conflict, the political scientist feels impelled more than ever to the defense of these values. He writes volumes to defend our system and to attack the systems of our enemies. He writes political philosophy and political ethics—just plain politics is forgotten."[7]

Undoubtedly the emergence of fascism and our participation in a war which most of us regard as involving issues that may, in part at least, decide our future destiny as individuals, as a nation,

[6] G. E. G. Catlin, *Science and Method of Politics* (1927), pp. 347–348.
[7] Whyte, *op. cit.*, p. 692.

and as scholars, have focused our attention, as it has never been focused in recent years, upon the values of the democratic way of life. To the charge of defending democracy and the values associated with it, most of us must plead guilty. Does that self-confessed "guilt" mean that as political scientists we have betrayed our obligations as scientific observers of the political process? Does it mean that in doing so we have expressed judgments which, as political scientists, we have no valid or proper right to make? Or does it mean, possibly, that we are no longer as convinced as we once were that our essential purpose is the a-moral description and analysis of political behavior?

II

The notion that the study of politics can be objective and truly scientific only when students of politics abandon every effort to describe political behavior or processes qualitatively springs from an empirical, positivistic perspective that became dominant in the latter half of the nineteenth century. For, during the nineteenth century the physical sciences achieved a prestige never before accorded them. By stimulating inventions, by improving the methods of production, by adding greatly to the physical stature of man and to his technological skill, the physical sciences added greatly to the material prosperity, comfort, and security of an ever-increasing number of people. To many, the practical application of scientific discoveries seemed to herald the dawn of the millennium. Where formerly men looked to God and religion for salvation, they now looked to science and technology.[8] The promise of an earthly utopia was substituted for the promise of eternal spiritual salvation as an aspiration worthy of men's efforts. The method had been found; paradise on earth waited only upon the proper execution of the plan to be discovered in the truths and methods of science.

Science soon became enthroned as the final arbiter of truth and value, occupying a position similar to that occupied by theology in the Middle Ages. Men now turned to science for understanding and salvation, as in the Middle Ages they turned to theology and to the Church. Technical efficiency and mechanical certainty became the ideals of the nineteenth century, and they were the ideals, not only of the scientists, but of the socially dominant, satiated bourgeoisie, whose primary desires, unlike those of their seven-

[8] For an excellent analysis, see Paul Tillich, *The Religious Situation* (1932).

teenth-century, revolutionary progenitors, were for certainty, security, and stability.

In retrospect at least, it appears inevitable that students of social phenomena should have turned with eagerness to methods that appeared to yield predictability, certainty, and security. Hoping to achieve for the study of human phenomena the same calculable certainty that seemed to characterize the physical sciences, students of social phenomena accepted with eagerness the perspective of empiricism and positivism.

Since the principle of causation, in which nineteenth-century science was rooted, had apparently succeeded so admirably in aiding the physical scientist to understand the physical universe, the application of a similar idea of causation to the study of human phenomena seemed likely to yield comparable results. The experimental method, based on empiricism and the inductive logic inherited from Aristotle and Bacon, were the tools with which the scientist sought to examine the operation of the universe. Premised upon the belief that the universe is a rational whole, in the sense that it can be rationally understood, and that "every detailed occurrence can be correlated with its antecedents in a perfectly definite manner, exemplifying general principles,"[9] nineteenth-century science led men to believe that by empirical methods alone they could discover "positive facts" and "universal laws" about all phenomena, human as well as physical. Endeavoring to repudiate the search for "final causes," the scientist tried to content himself with the "pure" description of empirically observable "facts."

With the increasing emphasis upon empiricism, less and less attention was given to metaphysical problems. Men began to ask "how" more frequently than "why." In fact, some scientists contended that they had eliminated metaphysical problems completely by rendering them meaningless. The effect of this trend towards positivism was to undermine all belief in transcendental truth and value. Value judgments were considered to be expressions of subjective preference rather than of objective truth. At best, judgments of right and wrong, good and bad, justice and injustice, were thought to be based upon utility or expediency. The student of social phenomena who accepted the perspective of positivism, if he were to emulate his brethren among the physical scientists, had

[9] A. N. Whitehead, *Science and the Modern World* (1925), p. 6.

necessarily to abandon the notion of value as objective truth. To evaluate was to be unscientific; truth was simply that which could be described inductively from the empirical observation of successive events.

Now positivism is an attitude growing out of the methodology of the physical sciences; but it is not necessarily synonymous with scientific method. It depends upon how you define the method of science. Positivism has been described by Guido de Ruggiero as "a philosophical tendency oriented around natural science and striving for a unified view of the world of phenomena, both physical and human, through the application of the methods and the extension of the results whereby the natural sciences have attained their unrivaled position in the modern world." It "calls 'positive' the facts and things of immediate perception as well as the relations and uniformities which thought may discover without transcending experience," and it regards as metaphysical "every inquiry which claims to go beyond the sphere of the empirical and seeks either hidden essences behind phenomenal appearances or ultimate efficient and final causes behind things, as well as any attempt to attribute reality to species, ideas, concepts, or the mind's logical 'intentions' in general."[10]

Now in challenging American political scientists to accept the perspective of positivism, Professor Whyte is simply urging them to retain a perspective which a great many of them have already accepted. His challenge does raise the question, however, whether the perspective of positivism is a sufficiently adequate one from which to observe and understand political phenomena, and whether by ruling out values as objective truths it automatically eliminates much that is pertinent, if not essential, to the understanding of any political process or behavior.

III

The adequacy of positivism as the most valid perspective in which to achieve a description and understanding of any phenomena, physical or social, must depend upon its ability to do what it claims to do. Now the positivist is most adamant in his insistence that metaphysical speculation can play no valid rôle in the description or understanding of any phenomena. It may be pointed out,

[10] Guido de Ruggiero, "Positivism," *Encyclopedia of the Social Sciences*, Vol. 12, p. 260.

however, that the positivist does, in fact, and necessarily so, engage in metaphysical speculation, and that he assumes premises which are essentially beyond empirical proof or demonstration. It is equally significant, however, that he denies this and acts as though it were not so.

That the positivist does engage in metaphysical speculation is demonstrated by the fact that he starts from assumptions neither derived nor derivable from sense perception. He starts, as Whitehead has demonstrated, from "an instinctive faith that there is an Order of Nature which can be traced in every detailed occurrence", and tends to believe that the reason for his faith is the "apprehension of its truth."[11] But, as Whitehead cautions, "the formation of a general idea—such as the idea of the Order of Nature—and the grasp of its importance and the observation of its exemplification in a variety of occasions are by no means the necessary consequences of the truth of the idea in question."[12] The world as the positivist sees it "exhibits . . . an involution of paths and a concatenation of circumstances which have arisen entirely by chance. We can describe what has happened, but with that description all possibility of knowledge ends."[13] To claim truth for this description, the positivist must transcend sense perception and empiricism. As T. E. Jessop succinctly put it: "To retain . . . the distinction of truth and falsity *even for science alone* we have to enlarge the scientific world, and in enlarging it to modify it deeply, for what is added is not something of the same order but something different in kind, not having even an analogy with the rest. Knowing, the process that has to other events the unique relation of apprehending them, is above the causal order, in the sense that, although in it, it also knows it. Science as knowing transcends the scientific world; its claim to be true lifts it above the type of order its content depicts. Deny the claim and the content is worthless; admit the claim and the content is set in a larger context. Science can explain things naturally, but never itself. It cannot be true in a purely scientific world."[14] It is only by transcending its own method that science achieves meaning, and the positivist can ascribe mean-

[11] A. N. Whitehead, *Science and the Modern World* (1925), p. 6.
[12] *Ibid.*, p. 6.
[13] A. N. Whitehead, *Adventures of Ideas* (1933), p. 157.
[14] T. E. Jessop, "The Scientific Account of Man," in T. E. Jessop *et al.*, *The Christian Understanding of Man* (1938), p. 40.

ing to his own observations only by engaging in the kind of speculation he denounces as improper.

That the positivist cannot avoid metaphysical speculation is illustrated by the principle of causation. As Hume pointed out long ago, the scientific notion of cause and effect achieves meaning only by transcending the empirical experience of what is called cause and effect. All that anyone can say by relying upon empirical observation alone is that one event precedes another, or that one event follows another. The moment the observer labels one of these events the cause and the other the effect, he is indulging in speculation which is essentially beyond empirical observation or proof. No one has ever *seen* one thing cause another; he has only inferred a causal connection. And, at best, contemporary scientists insist, the inference that one thing will follow another (however innumerable the observations of such events) rests not upon certainty but upon probability.

The problem of causation is further complicated, whether we are dealing with physical or political events, when, as is usually the case, we are dealing with situations in which there is a whole chain of events. Given a series of events, both successive and contemporaneous, how can we properly extract one, calling it the cause, and another, calling it the effect?[15] Simply to list the events in chronological order of occurrence, even if possible, would probably not succeed in giving us any clue whatsoever as to their causal connectedness. It would appear that we should require some knowledge about the entire context in which the particular events occurred, and that such an understanding could not be acquired simply by the empirical observation of successive events.

But even if the principle of causation is no longer regarded as a fundamental element of the positivistic perspective, as some now declare, there are other difficulties with a method that rules out value judgments as irrelevant or improper to "objective" description and understanding. That the positivist does in fact engage

[15] A boy gets his feet wet in the rain, he sits all day in school with wet stockings, and is kept after school by the teacher for a breach of discipline. He develops a cold which his mother neglects. Finally he comes down with pneumonia and his mother calls the doctor. The doctor is busy with another patient and arrives several hours after being called. He administers drugs, but the child dies. What is the *cause* of the child's death? The physician has a ready answer, but it is not one which satisfies the mother's conscience. She thinks her neglect is the cause of the death, and the teacher is not certain but that she is responsible. Or is the boy himself responsible? Where in such a chain of events do the cause and the effect lie?

in making value judgments is as significant as is his claim that he does nothing of the kind. By denying that he makes value judgments, he obscures by that device the judgments he does, in fact, make and forces himself to accept uncritically and tacitly judgments that he often obscures even from himself.

The positivist insists that he is concerned only with "facts" and with the stubborn "reality" of the "world of fact." Now it can easily be demonstrated that the most detached observer actually does something more than record "facts" that are brought to his attention by means of his sense organs. That thought involves a great deal more than the mere sensory awareness of one's physical and social environment is obvious to anyone who thinks; but even perception itself involves selection and choice. Of necessity, perception demands the ordering of sensory data into some meaningful pattern. No individual, however detached or however dedicated to the concepts and methods of science, is equally aware of all the possible data that may be brought to his attention by means of his sense organs. If he were, he would *perceive* nothing, since his environment would appear as a chaos of sensations, unintelligible and meaningless.

The recognition of facts requires not only sensory awareness but judgments as to value and significance. As a matter of fact, it is only by fitting the data made available to him by his senses into some preformulated conceptual scheme that the individual is able to perceive facts at all. Actually, then, when the positivist insists that to be properly scientific we must confine ourselves to a description of "positive facts" that can be observed without transcending our immediate sensory experience, he is insisting upon the impossible.

The physical scientist, whom the positivist urges the social scientist to emulate, is engaged in making value judgments daily: when he decides to investigate one problem rather than others; when he decides to use one kind of apparatus for experimental purposes rather than other kinds; when he uses various kinds of standards such as mathematical accuracy, skill in handling equipment, or logical consistency, to test his own conclusions or those of others; when he decides to reject a hypothesis or to formulate a new one; when, as a matter of fact, he chooses the scientific method itself as the most appropriate for his investigation and strives to adhere to its principles.

The positivist does, implicitly at least, accept value judgments of this kind as legitimate, yet at the same time he denies that values are facts, that values are objective truths. If the scientific method itself, however, is proclaimed to be *as a matter of fact* more appropriate than any other for understanding physical and social phenomena, then *this* value judgment *must* be accepted by the positivist as at least one value judgment that is objectively true. And if he concedes objective validity to this one value, as he must, he must logically concede the possibility at least that other values may also be objectively true.

The positivist, for example, cannot deny that the perpetuation of science itself depends upon the integrity of individual scientists. Now integrity is a value. It is not, unfortunately, always a human fact, yet this does not alter its validity as truth. If no one possessed integrity, it would still be true that science requires individual integrity for its perpetuation. If the positivist insists that the scientific method is better than other methods, that the perpetuation of the scientific method is valuable as a matter of fact, logically he must also insist that the factors which are prerequisite to the perpetuation of that method—such as the integrity of individual scientists, freedom to conduct scientific investigations and to propagate the findings of science—must also, as a matter of fact, be valuable. Thus the positivist does, implicitly if not explicitly, recognize certain values as being objectively true, and does so by transcending the sensations of immediate experience.

If one of the weaknesses of positivism is its inability (despite its claim) to discard completely all metaphysical speculation and ethical evaluation, another related weakness is its unsuccessful attempt to equate understanding with description. We have already pointed out that description itself necessarily implies the existence of some preformulated conceptual scheme in terms of which "facts" can be observed and ordered. Description apart from conceptual presuppositions is inconceivable. Facts do not present themselves to individuals (certainly not with neat labels already attached to them), but individuals seek facts, and the facts that individuals find depend in large part upon the conceptual presuppositions from which they begin their search. That these presuppositions are often accepted uncritically and tacitly, in many cases without a self-conscious knowledge of exactly what is presupposed, does not mean, of

course, that such assumptions are non-existent. When the positivist insists upon the "pure" description of the "positive facts" of immediate sensory experience, he is insisting upon the impossible.

Since the positivist, moreover, denies the legitimacy of qualitative judgments, he must assume that all facts are equally significant and equally relevant. All facts are not, however, equally significant. To understand the life of an individual, for example, it is not essential to know precisely at what time he rose from bed every single day of his life, how he performed his daily ablutions, what he ate on every occasion he sought to satisfy his hunger, or what he said on every occasion that he opened his mouth to speak. Catalogues, time-tables, and telephone directories are certainly useful collections of facts, but however complete or well classified those facts may be, no one would be justified in claiming that they even approximate scientific description. A list of facts, even when classified according to some logical scheme, is not synonymous with an understanding of the context in which those facts are found. History is more than a chronological list of events. Facts become meaningful only when we fit them into some pattern of meaning (a pattern of meaning, moreover, necessarily derived from something beyond the facts themselves) and only when we have some standard by means of which to separate the significant and relevant from the insignificant and irrelevant.

The inadequacy of positivism as the most valid perspective in which to achieve a description of any phenomena, physical or social, is demonstrated by its inability to achieve meaning without transcending immediate sensory experience. By eliminating the rational from the real, it eliminates at the same time any possibility of adequately explaining, at least in rational terms, the reality it seeks to describe. As Morris R. Cohen points out, positivism

> "... begins with a great show of respect for 'fact' as the rock of intellectual salvation. On it we are to escape from the winds of dialectic illusion. But as science critically analyzes the 'facts,' more and more of them are seen to be the products of old prejudices or survivals of obsolete metaphysics ... the 'facts' of science are admittedly checked and controlled by theoretic considerations—for they are characterized by rational or mathematical relations. Hence the empiricism which has an anti-intellectual animus consistently turns from the rational scientific elaboration of specific facts to a mystical pure experience in which all clear distinctions

are eliminated as the conceptual fictions of the mind. Thus does the worship of fact become the apotheosis of an abstraction devoid of all the concrete characteristics of fact."[16]

Nor can positivism, by seeking to reduce logic to psychology, succeed by that technique in eliminating all normative considerations. For again, as Cohen observes:

" . . . the attempt to make psychology identical with the whole field of science or philosophy can lead only to confusion. This is certainly the case when in the interests either of positivism or of psychologic idealism we deny the distinction between logic and psychology. . . . To me the greatest absurdity of all is the fundamental premise . . . that logic should be a description of the way we actually think. *Granted that all thinking goes on in individual minds, it does not follow that a psychologic description of reasoning as a mental event can determine whether the resulting conclusion is true.* All sorts of variations in imagery or motive may take place in the minds of those who come to the same conclusions as to the multiplication table, but these considerations are irrelevant to the truth or validity of what is asserted. . . . A psychologic description of what goes on in my mind as I deal with an ethical or practical problem will not determine the correctness of the solution arrived at; and psychology can no more include the whole of logic and ethics than it can the whole of technology."[17]

Positivism can achieve meaning for the facts which it describes only by engaging in the kind of metaphysical speculation it denounces as improper; or it can insist, as some positivists do, that the facts have no meaning. In the latter instance, it leads directly to the conclusion that "Life has no 'aim.' Mankind has no 'aim.' . . . Life is the beginning and the end . . . life has no system, no program, no reason; it exists for itself and by itself . . . it cannot be dissected according to good or bad, right or wrong, useful and desirable."[18] It leads to nihilism in thought and to anarchy in practice. It leads inevitably to the conclusion that "in the historical world there are no ideals but only facts—no truths, but only facts. There is no reason, no equity, no final aim, but only facts. . . ."[19] A

[16] Morris R. Cohen, *Reason and Nature; An Essay on the Meaning of the Scientific Method* (1931), pp. 36–37.

[17] *Ibid.*, p. 11.

[18] Oswald Spengler, *Politische Schriften* (1934), pp. 85–86. Quoted in Melvin Rader, *No Compromise: The Conflict between Two Worlds* (1939), p. 304.

[19] Oswald Spengler, *The Decline of the West* (1928), II, p. 368. Quoted with approval by the British Fascist James Drennan, *B.U.F.: Oswald Mosley and British Fascism* (1934), p. 183.

positivistic perspective leads inevitably to that kind of intellectual paralysis that is most conducive to the emergence of the fascist mentality.[20]

IV

Underlying the positivist's conception of politics is the assumption that politics is concerned primarily with individual or collective wills and that reason, to the extent that it has any existence or function at all, exists primarily to provide individuals with "good" reasons for "real" ones. It is a curious twentieth-century phenomenon that so many intellectuals should be so actively engaged in the task of persuading other intellectuals *by reason* that men are essentially irrational. That rational justification for such a view of man should be thought either necessary or possible is itself refutation of the conclusion these intellectuals seek by rational argument to persuade others to accept. That they should concede, moreover, that men do, in fact, feel some necessity for providing "good" reasons for "real" ones, says a great deal more about the rationality and ethical sensibilities of men than they intend to concede. Why, indeed, should individuals feel any necessity whatsoever for providing "good" reasons for "real" ones if they are essentially irrational, a-moral, and controlled by forces completely outside themselves?

These modern sophisticates who, nevertheless, insist that such is the case fail to recognize any distinction between genuine and spurious justifications. No reason advanced by an individual, if good, is ever in their opinion a real explanation of his behavior nor, by implication, is any real reason ever a good one. All political philosophy is rationalization. The distinction between Aristotle and Herr Dr. Goebbels is a distinction in subtlety only, and if anything can be said by way of comparison it is simply that the Herr Doktor, at least, is more frankly a political apologist. If, as the positivist insists, no rational justification is ever genuine, sincere, or

[20] For an excellent analysis of the influence of positivism upon the German mentality, see Helmut Kuhn, *Freedom: Forgotten and Remembered* (1943). In part, Kuhn declares: "Freedom is rational choice. The flight from freedom into forgetfulness presented itself, within the rarefied atmosphere of abstract thought, as a dialectic through which Reason was divorced from Choice. The Historicist, fastening on understanding to the exclusion of choice, reduced the mind to an impotent spectator. The Existentialist, exalting choice at the expense of reason, entrusted the self with a blind power of decision, thus reducing it to an irresponsible agent. After whittling away freedom from both ends, the two found themselves united in the task of consecrating the unfreedom of the totalitarian state." *Op. cit.*, p. 25.

real, then differences of political opinion can, in the last analysis, be decided only in the arena of force, and politics must be conceived as a species of warfare. It would appear that the positivist could accomplish more, therefore, in the realm of politics by girding his loins for combat than by searching interminably for facts.

When pressed for a definition of politics, the positivist declares that politics is the struggle for power; it is, he says, the technique of gaining and keeping power. Politics so conceived has been accepted now so widely that many would regard it as a sign of ignorance or sheer naïveté to challenge it as fact. Yet, as a matter of truth, politics so conceived is almost devoid of meaning. Asked to define the power that is so eagerly sought, the positivist can literally find no other word than power to describe what he means. And this is so because the moment power is described in terms other than itself, it is seen to be a means rather than a self-sufficient end.

When the positivist uses the word power, he uses it as though power were something substantive and tangible, as though it were a possession that could be accumulated, stored up, and manipulated. Yet it is only when power is used that it can be said to exist. An individual who claimed to have power, but never gave any indication that he had the power he claimed to have, would dominate no one. Only by *doing* something, only by acting in some way, could he convince others that he did in fact have the power he claimed to have.

Power, in other words, is not a substantive thing, but a relational concept. It implies a relationship between wills whereby one will or several wills are acknowledged to be superior to other wills. Since what is spoken of as power implies a *relationship* between wills, it implies that power cannot exist except in terms of a relationship in which there is an acknowledgement of superiority of one kind or another. Whatever form of superiority is acknowledged, whether of brute force, of wealth, of knowledge, of authority, the fact of acknowledgment is essential to the concept of power. Power, in other words, depends upon the acceptance of something as power, and it is the acceptance of that something which makes it power, not the claim to possession of power as a substantive thing.

Now if power is a relational concept rather than a substantive entity, if it exists only in action, it can never be a self-sufficient end. If men must act in order to demonstrate the power they claim to have, they must, of necessity, do something specific; they must

act purposively. For there is no such thing as willing without purpose. You cannot will to become more powerful, though you may, indeed, become more powerful by willing to do certain things that others accept, implicitly or explicitly, as a mark of superiority.

Since no one can be powerful without acting willfully (purposively), there can be no power where there is no purpose, no will to act. If this is so, then it is the purposes in terms of which men act that should be the concern of students of politics, not the analysis of an abstract will to achieve an abstract "power." When politics is defined as the struggle for power, it tends to obliterate any consideration of the purposes that animate political conflict. It is the conflict of purposes, of aims and objectives, that characterizes politics—not a struggle for a "power" divorced from all purposeful motivation.

By seeking to limit the legitimate function of political scientists to a description of political techniques, the positivist, implicitly if not explicitly, says that the purposes to which these techniques are put are of no legitimate concern to the political scientist. The essence of politics is thus removed from the realm of legitimate scrutiny by students whose function it is to study politics.

But if the positivist's denial of legitimate concern with political objectives robs the study of politics of an essential part of political activity, his adamant refusal to permit the evaluation of political institutions and purposes threatens not only to reduce political science to a meaningless analysis of political techniques, but to encourage, by default, the acceptance of a nihilistic perspective that is positively inimical not only to the perpetuation of particular political ideals (freedom, for example), but to the perpetuation of science itself.

For the positivistic conception of politics embodies a theory of politics which is essentially nihilistic, and which is none the better for being accepted uncritically and tacitly. For the denial of the objective validity of any political philosophy, the denial of values as facts, the refusal to examine the metaphysical and ethical assumptions underlying political thought and action, is itself a theory of politics, however much the positivist may dislike the attribution of theoretical considerations to his "scientific" endeavors, or however uncritically he may accept this theory. Implicit in positivism is a nihilism closely akin to, if not identical with, the gospel of cynicism and despair that produced the mentality of fascism.

When politics is viewed from the perspective of positivism, it leads to a shallow "realism" that mistakes the a-moral description of dirty politics for scientific observation and analysis. Such "realism" overlooks the fact that by emphasizing dirty politics and techniques to the exclusion of any consideration of what politics may or ought to be is itself, implicitly at least, condoning such politics by refusing to condemn. The refusal to pass an ethical judgment is a kind of ethical judgment none the less. Such a refusal, moreover, however sincerely motivated by a desire to remain "impersonal" and "scientifically objective," encourages in practice the kind of politics that may eventually destroy the very possibility of an objective and scientific study of politics, wholly aside from the injustice and misery such politics brings in its wake to all individuals, whether students of politics or not.

It is impossible within the scope of this paper to examine in detail, or even to mention, all of the implications for political science of the perspective of positivism. We know that when law is viewed solely from such a perspective, it is conceived, in the last analysis, to be nothing but the command, in legal form, of superior force; that when the rights of individuals are focused from the same perspective, they are conceived to be, in the last analysis, not rights at all, but simply concessions granted by the state or society.[21] The ideals which we cherish as democrats, if not indeed as men, turn out to be, under the scrutiny of the positivist, comforting illusions at best.

Let us take one of these—for example, the ideal of individual equality. The faith in human equality is a faith, not in the empirical or actual equality of individuals, but in their spiritual equality. In origin, the roots of that faith are religious rather than scientific. This faith, by its very nature, is beyond empirical or scientific proof. And since to the positivist anything beyond such proof is at least irrelevant, if not invalid, we are entitled to keep this faith (if we accept the perspective of positivism) at best as a personal prejudice. We cannot, as political scientists at any rate, insist upon the ideal of equality as anything but a comforting illusion.

The positivist who, in the cloister of his laboratory or den, exercises such noble and "scientific" restraint as to deny the faith that

[21] For a more detailed and documented analysis of the influence of positivism upon these concepts, see the present writer's *The Decline of Liberalism as an Ideology* (1943).

has overturned dynasties and bathed nations in the blood of revolution may some day wake (upon the coming of a very different kind of revolution) to find his own essential equality challenged by barbarians who may insist, to his own chagrin, that he was, indeed, right. And, lest the possibility seem remote, let us simply recall that such things have come to pass in nations whose cultural traditions would have seemed a few decades ago to belie just such a possibility. As political scientists, we can refuse to make ethical judgments only by denying our responsibilities as human beings. As political scientists, we have obligations not only as scientists, but as men; and if we are persuaded by some false loyalty to science, or by some false conception of its nature, to forsake our human obligations, we may end by denying not only our humanity but our science.

LEGAL AND ECONOMIC FACTORS AFFECTING SOVIET RUSSIA'S FOREIGN POLICY, I

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This study attempts to appraise the dynamic forces at play in the shaping of Soviet foreign policy and to discuss some of the recent problems of international law and diplomacy as viewed by the U.S.S.R. In order to place Russia's recent tortuous foreign policy in its proper perspective, it is essential to begin with a résumé of the changing Soviet concepts of law, followed by a consideration of the economic factors influencing these concepts. The shifting line of recent Soviet foreign policy will be discussed in a later part of the article.

I. SOVIET CONCEPTS OF LAW

Originally, the Soviet concept of law was predicated on transitional socialism; Soviet theorists argued that proletarian revolution has for the first time in history created a socialist state of workmen and peasants. "This is the highest type of state—that of the dictatorship of the proletariat." Having emerged victorious, the working class destroyed the oppressive, bourgeois state machinery and built a new state apparatus of its own. The new form of state, discovered by Lenin, is the Soviet Republic. The task of the workers is further to strengthen the dictatorship of the proletariat. Only thus can rule by the working-class prepare conditions for the future withering away of the state.[1] Concurrently with the abolition of classes, with their antagonistic interests, law will disappear as the state withers away. But the state of the dictatorship of the proletariat will continue during the entire first phase of communism. Its withering away will begin only in the second, higher phase. Destroying the bourgeois state, the working-class creates its own socialist law to express its will. The most important characteristic

[1] Friedrich Engels, *Herr Eugen Dühring's Revolution in Science* (Anti-Dühring) (London, 1933). The standard formulation of the theory of the development of the socialist state was expounded by Engels and not by Karl Marx. Engels argued that "as soon as there is no longer any class of society to be held in subjection . . . the government of persons is replaced by the administration of things and the direction of the process of production. The state is not abolished, it withers away." *Op. cit.*, p. 309. See also V. I. Lenin, *State and Revolution* (London, 1933). This revised edition was authorized by the Marx-Engels-Lenin Institute in Moscow.

of Soviet socialist law is its revolutionary creative force.[2] The classical exposition of the Soviets' conception of law was given by the former people's Commissar of Justice, who defined Soviet laws as "technical instructions" with no binding power over those who issue them.[3] This was especially so during the first decade of the Soviet régime. The law-courts were primarily political organs of the state, organized not to enforce law *per se*, but to carry out the political directions of the government. Since 1936, Soviet writers on jurisprudence have been using the term "socialist legality" instead of "revolutionary legality." Their contention is that "socialist legality" reflects a greater degree of permanence and public interest in the administration of Soviet justice.

Soviet concepts of international law changed in the light of shifting political expediency. The concepts of civil law, however, have not recently been subjected to extreme fundamental revision. In all instances, the interest of the whole and the duty to safeguard the social order have been the decisive criteria. Soviet jurists have always regarded the duties of the judiciary as identical with those of the entire governmental machinery; a court has no specific duty differing from those of other organs of governmental power. "We can and must speak of our law as a socialist law. It has always been, from the very beginning, an instrument of socialist reconstruction of the society; and so it remains."[4]

This philosophy of law and its practical applications have been the guiding principles in the light of which Soviet jurisprudence functioned. Moreover, some of the basic tenets expounded by earlier Soviet legal theorists are still regarded as sacrosanct, despite the fact that their authors have since been liquidated. As in the case of the *Gosplan*, the Soviet judiciary is rigidly controlled by the *Politbureau*. As far as the Soviets are concerned, justice in the abstract or moral connotation does not reign in a proletarian dictatorship. On the contrary, "Soviet law corresponds to the interests of the proletariat, organized into a ruling class. Hence, every problem of the Soviet civil law must be treated from the point of

[2] "Theses" published in *Sovetskaya Iustittsiya* (*Soviet Justice*), No. 8 (1937).

[3] Peter I. Stuchka, *Rovoluitzionnaya Rol Sovetskogo Prava* ("Revolutionary Rôle of Soviet Law") (Moscow, 1932).

[4] Nikolai V. Krylenko, "Konstitutsiya Stalina i Obiaznost' Sovetskoy Iustitsii" ("Stalin's Constitution and the Task of the Soviet Judiciary"), in *Sovetskaya Iustittsiya* (Soviet Justice), Vol. 16, Nos. 5 and 8 (1937). Krylenko was Commissar of Justice during the period 1931–37.

view of the interest of the ruling class, from the point of view of the policy of the Communist party (the vanguard of the class) and the government; it must be presented in the Party light and get a Party decision."[5]

Of equal significance is their argumentation glorifying the ruling class—the proletariat. They postulate their concepts on the premise that law is the complex of rules of human behavior established by the state power, i.e., by the power of the dominant class in society. They also hold that customs and rules of social life sanctioned by the state power are put into effect by compulsory order, with the help of the state machinery, to protect, strengthen, and develop social relationships advantageous to the dominant class. Hence dictatorship of the proletariat does not exclude law and legality as a form of expression. The logical conclusion to be deduced is, of course, that "proletarian dictatorship is the supreme law which determines the concrete contents of all Soviet laws."[6]

During the decade 1926–36, Eugene B. Pashukanis was the acknowledged leader of the Soviet school of juristic thought. As editor of *Sovetskoe Gosundarstvo* ("Soviet State Law"), he made the most authoritative formulation of Communist doctrines; and he was the recognized exponent of the Soviet interpretation of international law. Professor Pashukanis based his thesis on the Marxian dogma that the state will gradually wither away. Nevertheless, bringing his reasoning to its logical conclusion, he unwittingly adduced basic contradictions: "The enemies of the party are getting hold of the problems of withering away of law. If, in the U.S.S.R., the capitalistic elements have been destroyed and a classless society has been built, why does the state still exist?"[7] This view was so at variance with the "official" doctrine as to be regarded in the Kremlin as implacable heresy; and, true to form in

[5] Leonid Ia. Gintsburg, *Sovetskoe Khoziastvennoe Zakonodatelstvo* ("Soviet Economic and Legal Directives"), Course 44 (1934). See also Peter I. Stuchka, *Kurs Sovetskogo Grazhdanskogo Prava* ("Course in Soviet Civil Law") (Moscow, 1927); and Mikhail A. Reisner, *Pravo, Nashe Pravo, Chuzhoe Pravo* ("Law, Our Law, Foreign Law") (Moscow, 1925).

[6] Andrey Ia. Vyshinskii, "Konstituttsiya Stalina," in *Sovetskaya Iustittsiya* ("Stalin's Constitution," in *Soviet Justice*), No. 31 (1936). At the time this article was published, Vyshinskii was the Attorney-General of the U.S.S.R. At present he is Vice-Commissar for Foreign Affairs.

[7] Eugene B. Pashukanis, "Konstituttsiya Stalina i Sovetskaya Zakonost'" ("Stalin's Constitution and Socialist Legality"), in *Sovetskoe Gosudarstvo* ("Soviet State Law"), No. 4 (Apr., 1936).

purges, the author was ordered to disavow his ideas. He has since been liquidated, and his textbooks have been banned.[8]

The new school of thought is represented by a few relatively unknown writers on jurisprudence. Their writings on international law and Soviet foreign policy in various Russian academic and technical journals in recent years indicate that M. Ia. Rapoport and Iosif M. Lemin are the leading contemporary theorists at the Soviet Institute of Law. Moved by constantly changing political expediencies, Professor Rapoport approaches the problem theoretically to ascertain whether or not international law *per se* is to be regarded as a legal order. Answering that portentous question in the affirmative, he then advances the cogent argument that in the light of the present world-wide war it would be folly to view international law only as a bourgeois-capitalistic concept. Moreover, he criticizes Pashukanis for having interpreted the Soviet concept of international law exclusively from the point of view of the gradual withering away of the state. Such a theory of the law of nations cannot be validated by power politics; nor is it in consonance with the forces at play in the present global war.

Drawing extensively upon the writings of Karl von Clausewitz and Vladimir Illyich Lenin, and upon pronouncements of Joseph V. Stalin, Rapoport argues somewhat revealingly that even a dictatorship of the proletariat must of necessity take into consideration public opinion in foreign countries and reactions of its own people to the conduct of foreign affairs. Summarily stated, his thesis is that certain characteristic principles of international law are paramount.

"One should not conclude, however, that international law as applied to war has no real significance under present circumstances. The essence of law *per se*, as well as of law concerning the conduct of war, lies in the mutual relationships of different States, which are determined not by their economic and military might, but also by their respective moral positions."[9]

As evidenced by the writings of contemporary Soviet jurists, contempt for law has become disadvantageous for the authorities. Con-

[8] Charles Prince, "The U.S.S.R. and International Organizations," *American Journal of International Law*, Vol. 36, pp. 435–445 (July, 1942).

[9] M. Ia. Rapoport, "Voyna i Mezhdunarodnoe Pravo" ("War and International Law"), in *Morskoi Sbornik* (*Naval Journal*) (Leningrad, Nov., 1940), No. 11, 23 (93), p. 34.

tempt by the authorities weakens the state machinery by excluding from the motives of human conduct that of obedience to law. Therefore, the authorities, on whom development of doctrine in any sphere of knowledge is dependent, turned to research by jurists which would reinstate that motive. Curiously, the writings of Pashukanis, Korovine, Krylenko, Stutchka, and others (the legal scholars who were defied, disgraced, and "liquidated") have been "reincarnated." Whether legality can be restored within the framework of dictatorship by the proletariat is a matter of conjecture. The source of the difficulty is, of course, not in theoretical subleties, but in the fact that the very existence of law under dictatorship is uncertain.

Pashukanis and his school had foreseen this contradiction. They were aware of the fact that revolutionary and/or socialist legality differs from that in a bourgeois democracy, in that it retreats before immediate political expediencies. Nevertheless, "law is still viewed primarily as the guardian of rights. The very soul of law is thereby negatived. The new constitution of the Soviet Union of 1936 is not designed to alter the primary cause of the neglect of rights in Soviet Russia, i.e., the dictatorial concept of governmental power."[10]

Moreover, the basic changes formulated in the new constitution have not as yet been put into effect. The new constitution, however, reflects the thinking and practical application of the prevailing (official) concepts of Soviet law. Ownership of private property has not been entirely abolished; and the extremely limited rights an individual has been enjoying are not further restricted by the Constitution. The law-makers contend that:

"The new constitution of the U.S.S.R. clearly limits the rights and obligations of its subjects. We punish with all the justice and severity of Soviet laws for the violation of obligations. However, it will not occur to anyone to punish anybody for failing to utilize one or another of his rights, provided the exercise of individual rights does not conflict with the prevailing interests of the State."[11]

It is questionable whether the "new leaders" at the Moscow In-

[10] Vladimir Gsovski, "The Soviet Concept of Law," *Fordham Law Review*, Vol. 7, No. 1, p. 42 (Jan., 1938).

[11] Andrey Ia. Vyshinskii, "K Polozheniyou Na Frontey Pravoi Teorii," *Sotzialistchitcheskaya Zakonnost'* ("Concerning Conditions in Legal Theory," in *Socialistic Legality*, No. 5, p. 34 (May, 1937).

stitute of Law advance a new and profound Soviet theory of law, or whether it better interprets Marxian principles than the one that preceded it. The "new" theory does not appear to be a product of men better versed in legal philosophy, or students of more profound scholarship. To be sure, it reflects the current social, economic, and political situations. The new school of thought is retreating from the revolutionary (Marxian) concept and endeavors to establish a transition to the evolutionary process of law. Hence the search for a compromise between communist utopia and current history is probably the outstanding characteristic of the recent trend.[12]

The invidious terms employed by the *new* theorists, in their vain attempts to refute the concepts of Soviet law promulgated by their predecessors, have exceeded all bounds of decency. Thus, Professors Pashukanis and Korovine are accused of having deliberately expounded bourgeois, dogmatic, pluralistic concepts of international law under the disguise of theoretical subtleties expressed in ambiguous terms of "norm," "form," "concentric area," etc. They carefully circumvented, so runs the criticism, the question of class content of contemporary international law. Moreover,

> "All of these "concentric areas" (aside from those of the U.S.S.R.) represent not independent groups of norms, but elements of one and the same imperialistic system of international law. Hence, only by treating the content of the entire system as a means of strengthening the dominance of imperialistic countries is it possible to understand correctly the difference in the positive reference to international law, particularly the distinction between imperialistic countries of secondary rank and colonial and semi-colonial countries. On the other hand, the breaking up of the "norm" into concentric areas, without reference to the class character of the entire system, can give nothing but a bourgeois dogmatic exposition."[13]

The theory concerning the withering away of the state as originally formulated by Friedrich Engels and later expounded by Vladimir Lenin found a new expression in Stalin's realism.

[12] For a short statement on the "new" transitional period, see N. S. Timasheff, "The Crisis in the Marxian Theory of Law," *Contemporary Law Pamphlets*, Ser. 2, No. 1, Legal Philosophy Series, New York University School of Law, 1939).

[13] M. Ia. Rapoport: "Protiv Vrazhdebnekh Teorii Mezhdunarodnogo Prava" ("Against Hostile Theories of International Law"), in *Sovetskoe Gosudarstvo* ("Soviet State Law"), Nos. 1–2 (1937), p. 98. This publication is the official *Organ Instituta Gosudarstvennogo Prava Akademii Naook SSSR* ("Organ of the State Law Institute, Scientific Academy of the U.S.S.R.").

"Even though the exploiting classes have been suppressed here, the State cannot wither away as Karl Marx expected. It would be absurd to think that Marx could have foreseen nearly a century ago the present international situation and the capitalist encirclement of this lone Marxist State. Therefore, the State apparatus must be maintained, including the Army, Navy, and political police, to protect the State from foreign enemies."[14]

Regardless of theoretical subleties and "new" concepts of international law that Soviet writers had advanced, the government deemed it advantageous to conform to generally postulated principles of international law. In the main, this was true until September, 1938.[15] Since then, the Soviet régime has made moves of outstanding international import in defiance of generally accepted principles of international law. To illustrate: the invasion of Poland, the attack on Finland, the occupation of Bessarabia, and military pressures brought to bear on the Baltic states. In this connection it should be pointed out that it is not our intention to defame or to condemn the Soviet régime for having broken its obligations and treaties. Political and military events in 1941 and in 1942 may substantiate the thesis that it was "compelled" to perpetrate those acts. As far as this study is concerned, suffice it to observe that, since the rise of Hitlerism, the Soviet government has been making moves fraught with danger on the home front as well as in its relations with foreign countries. Theorists and academicians were subsequently summoned to justify those moves on legal grounds and to reconcile obvious contradictions.

Soviet juristic thought concerning the general principle *jus ex injuria non oritur* (legal continuity) is predicated on the hypothesis that revolution *per se* is justified. It would follow, therefore, that the old concepts become null and void in the storm of a social cataclysm, such as the Bolshevik Revolution in October, 1917, when one class replaced another at the helm of the state to reorganize not only economic relationships, but the entire legal system and the governing principles of internal and external politics.

[14] Address before the 18th All-Union Communist Party Congress, March 11, 1939, and published in *Pravda* the next day. *Pravda* ("The Truth") is the official organ of the Central Executive Committee and of the Moscow Committee of the Communist party—*Politbureau.*

[15] For a critical résumé of the principles of international law as applied by the Soviets up to September, 1934, see T. A. Taracouzio, *The Soviet Union and International Law* (New York, 1935).

As far as Soviet Russia's foreign policy is concerned, what has mattered during the past twenty-odd years, and what will continue to matter in the immediate future, is how Stalin interprets and translates into practice the theses postulated by Marx, Engels, and Lenin. To be sure, Soviet Russia's foreign policy has been marked by wide deviations from the principles and ideologies outlined in the writings of the Founding Fathers of the Revolution. As corroborative evidence of this deviation, we have Stalin's explanation given in the course of an address which he delivered on March 10, 1939, before the Eighteenth Congress of the Communist party of the Soviet Union:

"We have no right to expect of the classical Marxist writers, separated as they were from our day by a period of forty-five or fifty-five years, that they should have foreseen each and every zigzag of history in the distant future in every separate country. It would be ridiculous to expect that the classical Marxist writers should have elaborated for our benefit ready-made solutions for each and every theoretical problem that might arise in any particular country fifty or one hundred years afterwards, so that we, the descendants of the classical Marxist writers, might calmly doze at the fireside and munch ready-made solutions." Moreover, Stalin announced that "as a matter of fact, the forms of our state are changing and will continue to change in line with the development of our country and with the changes in the international situation."[16]

Illustrative of this trend are the constitutional changes announced on February 1, 1944, affecting the autonomy of each of the sixteen Union Republics.[17]

These decrees appear to project post-war policies of enduring significance, and are signs of an internal post-war stability the like of which Soviet Russia has not experienced throughout the twenty-six years of its existence. Similarly, they indicate that the Nazi invasion of Russia brought about a national cohesion within the Soviet Union such as the Stalin régime was unable to achieve throughout the years it has been in power. Moreover, the gradual appearance of a new generation almost completely loyal to the

[16] J. Stalin, *Problems of Leninism* (Moscow, 1940), p. 659. This volume follows the eleventh Russian edition of *Problems of Leninism*, published by the State Foreign Languages Publishing House of Political Literature. In this connection, see also *The Land of Socialism Today and Tomorrow; Reports and Speeches Delivered at the 18th Congress of the C.P.S.U. held in Moscow in March, 1939* (Moscow, 1940).

[17] *Information Bulletin*, Embassy of the U.S.S.R., Washington, Vol. 4, No. 15 (Feb. 5, 1944).

present Soviet régime makes the process of decentralization all the more feasible. It may pave the way for a gradual introduction of political democracy within the Soviet Republics.

In the Stalin constitution of December 5, 1936, Articles 126 and 141 specifically assert that the Communist party, and not the state, is the repository of final political, economic, and administrative power. The new decrees do not change this fundamental core of the Soviet Union.

Of equal significance is the juridical structure of the Soviet Union. According to Article 69 of the Soviet constitution, the Supreme Court has no jurisdiction over the final decisions of the Supreme Soviet Council of the U.S.S.R.; hence the Supreme Soviet, or in the last analysis the *Politbureau*, is its own judge. The Union Republics will thus continue to be the functional and operational agencies of the U.S.S.R.[18]

In the light of recent Soviet concepts of law, American exponents of international law have observed that the theorists of Nazi, Fascist, and Communist law of nations regard the state as mankind in an organized unit. The totalitarian state *per se* is the effort to realize this idea, in the shortest possible time, by the ruthless use of political, economic, and military power. To the totalitarian state, therefore, war is an instrument of policy to be used whenever government deems expedient. The relation of totalitarianism, of whatever prototype, to international law is therefore one of incompatibility. "If totalitarianism triumphs in the present war, international law will suffer a severe decline from which it may not recover."[19]

However, contemporary Soviet theorists distinguish sharply between dictatorship by the proletariat and Fascist totalitarianism, both in philosophy and in methodology. Distinctions between the two opposing systems—social, economic, ideological, political—is the subject of the next section.

II. ECONOMIC FACTORS

In consonance with the decision early in 1928 to concentrate on building a Socialist Fatherland, the Soviets launched a planned

[18] For a more elaborate analysis of the Soviet autonomy decrees concerning the transformation of the People's Commissariat of Foreign Affairs from Union People's Commissariats into Union Republican People's Commissariats, see Charles Prince, "New Soviet Line-up," in *New York Times*, Mar. 19, 1944.

[19] Quincy Wright, "International Law and the Totalitarian States," in this REVIEW, Vol. 35, No. 4, p. 743 (Aug., 1941).

and managed economy which called for the creating and developing of industrial centers in strategic areas east of the Urals. Similarly, the formation in Eastern Siberia of an independent and largely self-sufficient war economy was guided by the same principle. The *Gosplan* was charged with effectuating the purposes of this decision: to make the Soviet Union safe first for socialism and eventually for communism.[20]

The functions of the *Gosplan* are closely interwoven with, and its policies are determined by, the *Politbureau*.[21] This interlocking control of the entire national economy has given the government its extraordinary power, its exceptional stability; it has enabled the Soviet régime to survive shocks which might have been fatal to democratic governments.

Russia's formidable resistance and its powerful military machine—where, when, and how have they been built up? Why did Russia refuse British and American observers permission to see munitions factories, plants, and military stock-piles of supplies? One wonders whether the three *Piatiletki* ("Five-Year Plans") were not in reality gigantic military preparations.

The *Gosplan* formulated and executed its plans under instructions by the *Politbureau*. Ostensibly, the chief task of the first *Piatiletka* was to restore the national economy and to industrialize it with new plants in heavy industry. The main task of the second *Piatiletka* was to liquidate private ownership and to collectivize Soviet agriculture.[22] The third *Piatiletka* was presented to the Russian people by the Commissar for Foreign Affairs as "a gigantic program to raise the level of national economy, culture, and general welfare. It is a program for a gradual transition from socialism to communism."[23]

Swayed by constantly changing conditions, the *Gosplan* has been reorganized several times during its twenty-two years of existence. But one emphasis has remained paramount throughout the Soviet

[20] See editorial, "Vneshnyia Politika Strany Pobedivshego Sozialisma" ("Foreign Policy of a Country of Victorious Socialism"), in *Izvestia*, Mar. 13, 1939. *Izvestiya* (Herald) is the official organ of the All-Russian Central Executive Committee of the U.S.S.R.

[21] The *Politbureau* is the all-powerful, policy-determining Central Executive Committee of the Communist party of the U.S.S.R.

[22] *Socialism Victorious; Reports and Speeches Delivered at the 17th Congress of the C.P.S.U.* held from Jan. 26 to Feb. 10, 1934, in Moscow (London, 1935).

[23] Vyacheslav M. Molotov, *Tretya Piatiletka* ("The Third Five-Year Plan") (Moscow 1939), p. 5. See also Aron Yugow, *Russia's Economic Front for War and Peace* (New York, 1942).

régime, namely, military needs and the imminence of war have always received first consideration in all economic planning.

Similarly, the organization and functioning of the *kolkhozes* (agricultural coöperatives) and of the *sovkhozes* (state farms) have been geared and directed to war economy. Decentralization of industry and collectivization of the peasantry, carried out at inhuman and harsh costs, reflected the foreign policy pursued by the *Politbureau*. Also, a regional *Grossraumwirtschaft* that would survive economic strangulation and political encirclement by all of the Great Powers was the underlying aim of the first and second *Piatiletki*.

Impelled not so much by opportunistic compromises as by the dynamics of struggle, Sovietism temporarily moved away from its final goal of a classless and harmonious society. At that point, a theory of "the transition period" was developed which sought, and still seeks, to reconcile contradictions between the final goal and the means used to attain that end. Thus drawing extensively from the writings of Karl Marx, Friedrich Engels, and Vladimir Lenin, contemporary Soviet theorists argue that the dictatorship of the proletariat is the inevitable link between capitalism, a society in which antagonistic forces reach their highest development, and socialism, a social order based on rules of solidarity.

It is true that some statistics in Soviet journals must be scrutinized with discretion. Nevertheless, perusal of *Planovoye Khozyaistvo* ("Planned Economy") and other technical and scientific journals[24] indicates the incredible economic potentialities in the eastern regions of the U.S.S.R.—in the Urals, Siberia, the Far East, and Soviet Central Asia. These regions are known to have enormous deposits of raw materials, namely, eighty-five per cent of the country's water power, sixty per cent of its wheat land, and more than thirty per cent of its iron ore.[25]

It has been a matter of common knowledge that the Soviet Union has expended heavily in effort, materials, and equipment during the past three years (1941–43) to industrialize the Soviet Far East. Especially has it been active in cultivating the hinterland

[24] *Planovoye Khozayistvo* is the official publication of the *Goslan* (State Planning Commission): *Gorny Zhurnal* ("The Mining Journal"); *Tyeplo i Sila* ("Heat and Power"); Vyestnik Inzhenirov ("The Engineers' Messenger"); *Azerbaizhanskoe Naftyannoye Khozyaistvo* ("The Azerbaizhan Oil Industry").

[25] See William Mandel, *The Soviet Far East* (New York, 1944); also *Socialist Construction in the U.S.S.R.; Statistical Abstract* (Moscow, 1936) (Russian edition).

of Siberia and adjacent areas and in making it a source of supply of agricultural food products. On the basis of available reports, it seems that even during the past two years, while the Soviet Union has been engaged in the most savage and determined battles to drive out the Nazi invaders, the economic and agricultural development of the Soviet Far East has proceeded uninterruptedly on a gigantic scale. Spasmodic reports in recent Soviet journals would seem to indicate that the industrialization as well as the agricultural growth of that area has been carried forward on such a vast scale as almost to triple the speed with which the First and Second Five Year Plans were carried out in the Ukraine and behind the Ural area.

Unlike democracies which rely on coöperation, discipline, and the willingness of labor and capital to make sacrifices, Soviet economy has been operating in terms of *Realwirtschaft* (real or natural economy). The basic structure of the Soviet economy renders its control all the more simple. Almost from the beginning of its existence, the Soviet government curtailed mass civilian consumption by rationing the total national expenditure of consumers' goods in order to build up heavy industry. In war-time, the Soviets have resorted to more rigid and direct methods in diverting the required parts of production and income. Obviously, such an economy need not have recourse to the indirect controls of prices, taxes, wages, compulsory savings, and curtailed investments.

Successful development of those resources was a matter of life and death for the Soviet Union for four reasons: (1) In view of seemingly imminent hostilities with Japan, it was of paramount importance to provide the necessary armament and equipment for the powerful Far Eastern Red Army, lest these forces be compelled to depend for their supplies on consignments travelling 6,000 miles along the Trans-Siberian railway. (2) Russia needed a reserve of supplies for its armies of the west, in the event of retreat and the loss of arsenals and centers normally supplying them. This was equally true of the Air Force and Navy. (3) As noted above, Russian farming has been mechanized on a gigantic scale. Hence food supplies depended (and still do) on tractors, lorries, combines; and these, in turn, depend on oil. (4) Of equal significance was the stiffening of civilian morale in the eastern regions. Accordingly, the proffered higher standard of living of people there had to be ac-

celerated, war clouds notwithstanding. Civilian needs had to be supplied, to immunize in some measure the local populace against Japanese propaganda.

The most marked feature of the first three years of the Third Five-Year Plan (1938–40) was the drastic increase in defense expenditure. The allocations for national defense in the 1940 budget were double the 1938 figure. Moreover, in view of the fact that about two-thirds of the total capital investment in industry, agriculture, and transport came from grants from the national budget, this means that the rate of expenditure on defense amounted in 1940 to two-thirds of capital investment. During the same three-year period, the industrial output of the U.S.S.R. increased from 95,500 million rubles in 1937 to 137,500 million rubbles in 1940, or by forty-four per cent. This includes an increase in the output of the machine-building and metal-working industry by seventy-six per cent.

In his report delivered at the Eighteenth All-Union Conference of the C.P.S.U. (B) on February 18, 1941, the chairman of the *Gosplan* said: "In respect to the output of the defense industry, the government was guided by a simple truth, namely, if you want to be prepared for any 'surprises,' if you do not want our people to be caught unawares, keep your powder dry and do not stint means on the production of aircraft, tanks, armaments, warships, and shells."[26] To keep the country in a proper state of military preparedness has been the guiding motif of the Soviet economy during the last decade.

A similar *motif* was reflected in Soviet Russia's international trade and intercourse, particularly in its multilateral trade agreements. The foreign trade policy of the Soviet Union was continually reiterated by Molotov and Litvinov, prior to and during their tenures as Commissar for Foreign Affairs. They held that expanded trade with foreign countries, irrespective of their capitalistic structure or militarist program, was sound policy for the Soviet government.[27] Moreover, their foreign trade policy has not been altered,

[26] Mikolai Voznesensky, *Economic Results of the U.S.S.R. in 1940 and the Plan of National Economic Development for 1941* (Moscow, 1941), p. 8. See also Maurice Dobb, *Soviet Economy and the War* (London, 1941).

[27] Vyacheslav M. Molotov, *Statii i Rechi* ("Essays and Speeches"), 1935–1936 (Moscow, 1937); Maxim M. Litvinov, *Vneshniya Politika SSSR; Rechii i Zaiavlenii* ("Foreign Policy of the U.S.S.R.; Speeches and Statements"), 1927–1935 (Moscow, 1937).

and there is no intention of changing it. This policy entailed, among other things, (1) liberty for official representatives of trading countries to fulfill all necessary functions connected with trade; (2) lawful intercourse between both representatives of governments and the citizens of trading countries; and (3) submission of foreigners to the jurisdiction of countries where they reside.

However, under the theories and/or slogans of "building socialism in one country," "national security," "self-preservation," and "domestic order," shifting political expediencies have been resorted to in utter disregard of international law. This has especially been true since May 3, 1939, when Maxim M. Litvinov was removed from the post of Commissar for Foreign Affairs.

In pursuance of this opportunism, Soviet jurists, scientists, economists, and political theorists have been instructed to explain and interpret, to justify and validate, every move made by the Government (such as abrogations of treaties and obvious violations of international agreements to which the Soviet Union is a signatory) in terms of self-preservation. These apologists have elevated political expediency and compromise to the dignity of postulated principles of international law.

(*To be concluded in the next issue*)

STATE CONSTITUTIONAL LAW IN 1943–44

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Total war may be either the negation of constitutionalism or the ultimate test of its vitality. During the third year since Pearl Harbor, the leading constitutional cases decided in state courts have at last begun to show the operation of the principle of limited government in war-emergency conditions. The judicial veto has been vigorously used. Separation of powers in particular and, to some extent, non-delegability of legislative power have revived to new strength after a period of apparent decline. Minority rights, although only slightly curtailed in the readjustment to paramount war-time needs, have suffered more serious modifications in other respects. Otherwise there has been a notable absence of outstanding civil liberties cases. The courts have vied with legislatures in manifesting a growing conservatism toward the constitutional rights of labor. The position of the state, and especially the position of the state courts in the federal system, has been a continuing source of constitutional development. Problems of government and business have more than lost their depression-era dominance. Signs of judicial distaste for popular participation in the legislative process have persisted.

I. WAR CASES

Military Service: Incompatibility of Offices. Almost without exception, state courts have continued to interpret constitutional restrictions favorably to state officials absent on military duty. Even the most literal prohibitions against dual office-holding[1] have been ingeniously construed to avoid embarrassing or penalizing those rendering military service.

[1] The New Jersey court of errors and appeals held that the constitutionally-adopted common law doctrine of the incompatibility of offices could not successfully be invoked to vacate the office of a town mayor who had accepted a commission in the army—not, at least, where the legislature had indicated a policy to permit mayors to be absent for good and sufficient cause. Kobylarz v. Mercer 31 A. (2d) 208 (N. J., Mar., 1943). Interpreting the usual prohibition against dual office-holding, the North Carolina supreme court advised the governor that a statute was valid which authorized him to grant leaves to state officials for army service. Stress was laid on the temporary, and hence not incompatible, character of the second office, and on the fact that this case fell within the reason which led the framers of the constitution expressly to exempt service in the militia from the operation of the limitation. *In re* Advisory Opinion to the Governor, *In re* Yelton, 28 S.E.(2d) 567 (N. C., Jan., 1944). The supreme court of California expanded its earlier liberal opinion—which had declared that military service vacated state office but temporarily—to

Soldier Vote. It is something of a paradox, therefore, that less liberality has been shown in dealing with the constitutional problems involved in the soldiers' ballot. Not only is the record to date disappointing: it is one that suggests unprecedented litigation and confusion as an aftermath of the war elections.

The first soldiers' vote act to suffer was the Delaware law of 1898, which enabled qualified service men in two previous wars to cast their ballots at places of encampment.[2] The general absentee ballot law of 1923, having since been held invalid on the ground that the constitution required the voter to be physically present at the polling place, the court saw no escape from precedent. Nor could it reconcile the statute with Delaware's highly detailed constitutional provisions designed to prevent bribery and secure honest elections. Under these provisions, any person challenged for the suspected use of money or reward in an election could clear himself by oath, punishment for perjury being made the penalty for swearing falsely. Insisting that the constitution and laws of a state have no binding effect beyond its territorial limits, the court pointed out that prosecutions could not be conducted within the state for any falsehoods that might be committed outside. Similarly, extending hypothetical difficulties further, the summary process by which county courts were authorized to deal with delinquent election officials could issue only within the geographic confines of the state. If any doubt remained that such constitutional provisions necessarily implied that voters must personally appear at polling places in Delaware, that doubt was removed in the court's view by a con-

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cover judges of the superior courts. This was done notwithstanding a constitutional declaration that "the legislature shall have no power to grant leave of absence to any judicial officer; any such officer who shall absent himself from the state for more than sixty consecutive days shall be deemed to have forfeited his office. . . . " This section was said to apply to personal, rather than military leaves, and the court could see no compelling reason why judges alone, "of all the officers and employees of the state, should be discouraged from entering military or naval service in time of war." Moreover, a constitutional clause directing judicial vacancies to be filled at the next general election "by the election of a judge for a full term" of six years was held to contemplate permanent vacancies. Hence, a temporary judicial vacancy, caused by the absence of a judge on military service, is to be filled by the governor under the constitutional authority given him to fill all vacancies for which "no mode is provided by the constitution and law." People v. Sischo, 144 P.(2d) 785 (Calif., Dec., 1943). The only exception to the continued liberal trend was a five-to-four decision which held that a regent of the University of Oklahoma automatically forfeited his office immediately upon entering active duty as a commissioned officer in the Army of the United States. Wimberly v. Deacon, 144 P.(2d) 447 (Okla., Dec., 1943). In none of these cases did the absent official lay claim to his state salary. Where such a claim was made, it was not well received. Frazier v. Elmore, 173 S.W.(2d) 563 (Tenn., July, 1943).

[2] State *ex rel* Walker v. Harrington, 30 A.(2d) 688 (Del. Feb., 1943).

stitutional clause which secured electors against freedom from arrest "during their attendance at elections, and in going . . . and returning . . . ;" for such language, it was argued, could not be assumed to have, nor to have been intended to have, extraterritorial effect. Finally, the constitution and soldier vote law were held to be "irreconcilably antagonistic" because the law departed from explicit provisions of the constitution respecting the handling and disposition of election certificates, ballot boxes, and election papers.

Three hundred and forty-one soldiers' ballots, a number sufficient to change the outcome of the contest, were eliminated in a New Jersey municipal election because sixty-three ballots came from unregistered voters and these had been inseparably commingled with the rest.[3] An intermediate court upheld the elimination despite a specific constitutional guarantee that ". . . in time of war no elector in the actual military service of the state, or of the United States, . . . shall be deprived of his vote by reason of his absence. . . ." The court reasoned that an "elector" is a "qualified or legal voter," and the qualifications of a legal voter are those which are determined by the legislature. Hence the statutory requirement of registration must be met even by "electors" in the armed forces who have been serving on five continents and seven seas since 1941.

Delegation of Power to Meet War Emergency: Primaries. Could Governor Saltonstall, acting under his constitutional and statutory powers as supreme executive magistrate, and as commander-in-chief of the military and naval forces of Massachusetts, advance the date of the state primaries and modify provisions of the law relative to registration and absentee voting for the purpose of allowing time for soldiers to vote?[4] This question, asked by the Governor, was answered in the negative by a majority of the supreme judicial court. The answer turned in part upon the validity of a statute, passed the month after Pearl Harbor, which conferred on the governor, for the duration, all constitutionally delegable "authority over persons and property necessary or expedient for meeting the supreme emergency of such a state of war." "Without limiting the generality" of this grant, the governor was authorized to "exercise authority relative to any or all of" the specific matters embraced in seventeen numbered subparagraphs. The act further provided that provisions of general laws and ordinances in conflict with the executive's orders should become "inoperative."

So sweeping and unqualified a delegation of authority, the majority of the court found intolerable. The legislature could not constitutionally grant to the governor "a roving commission to repeal or amend by execu-

[3] Richardson v. Radics, 35 A.(2d) 425 (N. J., Nov., 1943).
[4] Opinion of the Justices, 52 N.E.(2d) 974 (Mass., Jan., 1944).

tive order unspecified provisions included anywhere in the statute law . . . rules, regulations, ordinances and by-laws. . . ." Such was not delegation, but outright "surrender of the legislative function to the executive. . . . War does not abrogate the constitution. It supplies no excuse for confusing legislative with executive powers." Definition of delegated authority was made especially necessary by Article 20 of the Declaration of Rights which declares that the "power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for." Since none of the seventeen subparagraphs had made express provisions for effecting changes in electoral dates or requirements, it followed that these matters lay beyond the scope of executive order. To hold otherwise, "if it would not fully open the door to government by edict, at least would leave that door ajar."

Nor could the governor's authority to advance the date of the state primaries be derived from a statute, passed in 1941, giving the chief magistrate "full power to coöperate" with federal officers and governors of other states "in matters pertaining to the common defense or to the common welfare, . . . and to take any measures which he may deem proper to carry into effect any request of the President of the United States for action looking to the national defense or to the public safety." The objects of this measure, the court argued, were such "immediate and tangible dangers to be apprehended from a state of war" as would be met by blackouts, air raid warnings, and the taking of means of conveyance and of food and fuel. "Surely there is an ample field for the coöperation mentioned in this section and for the carrying into effect of any request of the President, . . . without implying a grant of power to change the election laws by executive fiat." "In a democracy laws relating to the conduct of elections, including primaries, are matters over which it is peculiarly difficult under any circumstances to imply a legislative intent to vest an elective officer, however exalted and responsible, with personal power that, in some hands and under some circumstances, might be susceptible of abuse to political and partisan advantage." Such a grant would violate the constitutionally protected principle that in order to prevent oppression the people have a right to return "their public officers . . . to private life and to fill up vacant places by certain and regular elections and appointments."

Chief Justice Field dissented. In his view, the precise date at which primaries were to be held was "an administrative detail of the statutory method of voting." Not only might authority to determine this administrative detail be conferred upon the governor by the General Court, but the authority so conferred was also authority which the governor might "legally deem to be 'expedient' to meet the 'supreme emergency of such a state of war,'" within the phrasing of the statute. If the general grant of

authority was overly broad, and perhaps unconstitutional in part, the part was at least severable, and the act ought to be applied in harmony with the general purpose of the legislature. Finally, there was no offense to Article 20 of the Declaration of Rights, because "The action of the governor would be by authority 'derived from' the General Court and in the particular case of a 'supreme emergency of such a state of war.'"

Blackout Regulations. Notwithstanding the sweeping character of many of the delegations, few litigants have had the hardihood to contest constitutionality of the various war-power statutes which delegated authority to the executive to prescribe regulations pertaining to blackouts, air raids, and such matters. One New Jerseyan who did so,[5] relying strongly on the Schechter and Hot Oil decisions, was informed that the governor merely had been clothed with authority to perform an added executive function, and that courts "must take judicial notice of the fact that acts of war are as unpredictable and uncertain as the future unknown acts of God. . . ."

Free Speech: Picketing. Is labor's newly-won constitutional guarantee of the right to picket, truthfully and without violence, curtailed by war? The Oregon supreme court answered this question affirmatively by sustaining an injunction which had been issued to disperse picket lines established by members of the International Woodworkers of America (CIO).[6] The members of this union had been discharged by the plaintiff logging company as a result of their refusal to join the Carpenters and Joiners Union (AFL), the latter union having secured a closed shop agreement in March, 1941, following its designation as exclusive bargaining representative at a National Labor Relations Board election in 1939. It was pursuant to this agreement, and at the insistence of Carpenters and Joiners, that the CIO workmen were discharged. Habitually regarding all picket lines as sacred and inviolable, and fearful lest they be blacklisted in CIO camps, the AFL Carpenters and Joiners then refused to cross the CIO picket line, thus virtually closing down the camp. A temporary injunction was granted in September and made permanent six days after Pearl Harbor. The court

[5] State v. Natelson Bros., 32 A.(2d) 581 (N. J., June, 1943). The New Jersey courts also sustained, as a war measure, a city ordinance, passed in conjunction with similar legislation by adjoining cities, which required drug stores to close at 10:00 P.M. on weekdays, 11:00 P.M. on Saturdays, and 9:00 P.M. on Sundays. The fact that overworked pharmacists might make costly mistakes made the regulation a reasonable exercise of police power. Spiro Drug Service, Inc., v. Board of Commissioners of Union City, 30 A.(2d) 892 (N. J., Mar., 1943; aff'd. 33 A.(2d) 872, Sept., 1943). But a Newark ordinance compelling retail stores, with certain exceptions, to close Tuesdays and Thursdays at 6:00 P.M. was struck down by the courts. Crawford's Clothes, Inc., v. Board of Commissioners of City of Newark, 35 A.(2d) 38 (N. J., Jan., 1944).

[6] Markham and Callow, Inc., v. International Woodworkers of America, 135 P.(2d) 727 (Ore., Mar., 1943).

decided that the state's Norris-LaGuardia act did not forbid the injunction, since this was a jurisdictional conflict and not a "labor dispute." The argument was advanced that not all forms of picketing are constitutionally sanctioned by rights of free speech, and that the "delicate" judicial function of "balancing the opposed interests of liberty and national security" must be performed in an awareness of "the context of total war and the terrible urgency of unimpeded production for national defense." Quoting Justice Holmes' famous remark in the Schenck case,[7] "when a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight," the court concluded that if, in time of war, "the pure right of free speech not connected with conduct may be somewhat limited," then surely "interests lying on the vague periphery of constitutional right, wherein speech and action are blended," may be subjected to this "modest restraint."

Japanese-Americans. Counsel for a Japanese-American who had been convicted of the brutal murder of his Japanese-American wife in the presence of several witnesses in a hotel lobby five months after Pearl Harbor contended, upon appeal, that war-induced hatred of his race was so intense as to make a fair trial impossible.[8] Counsel also argued that his client had been denied equal protection because Japanese had been excluded from the jury. The Colorado supreme court found no merit in either argument. The fact that the defendant had conducted a business and had lived in the hotel, both of which were patronized by whites, showed that racial feeling had not become "so general as to constitute a mob psychology at the time of the trial." Practical considerations that the war is of indefinite duration and that racial prejudice might well persist beyond its end justified denial of a motion for a continuance until after the war. Even if the equal protection point had been properly raised at the trial, which it had not, there was no showing of systematic exclusion of Japanese from the panel or jury.

A crude attempt to inhibit the business activities of Japanese-Americans was struck down by the Arizona supreme court.[9] The case involved a statute which prohibited, except upon constructive notice by publication in the press, any transactions with a "person whose movements are restricted by operation of law or by an executive or other order authorized by law." The court concluded that since the wording of the statute covered members of the armed forces and persons incarcerated for crime, it was so vague, indefinite, and uncertain as to violate state and federal due process requirements. These requirements are not affected by the war,

[7] Schenck v. United States (1919), 249 U.S. 47, 52.
[8] Honda v. People, 141 P.(2d) 178 (Colo., July, 1943; reh. den., Sept., 1943).
[9] State v. Ikeda, 143 P.(2d) 880 (Ariz., Dec., 1943).

since the act is not in aid of any federally declared war purpose and the states possess no independent war power.

War Sabotage. The national Model Sabotage Act, making criminal the intentional destruction of property "with reasonable grounds to believe that such act will hinder, delay or interfere with the preparation of the United States . . . for . . . defense or for war . . . ," adopted by California in 1941, easily withstood constitutional challenge.[10] An intermediate appellate court ruled that the statute was not so indefinite and uncertain as to violate due process requirements. The court thought it obvious that "any person of ordinary intelligence should realize, i.e., have reasonable grounds to believe, that the act of cutting the wings of an airplane then being used to train air cadets for the United States Army" would result in rendering the plane useless and in possible injury or death to the trainees. The similarity of the law to the recently-sustained federal Espionage Act,[11] and the defendant's failure to overcome the presumption of constitutionality, were other factors mentioned in the opinion.

War Emergency Council. An advisory opinion of the Alabama court disapproved of a bill which would have created a war emergency council composed of the governor and eight members of the legislature, four of whom were to have been elected by members of each house.[12] Per diem compensation of members was held incompatible with a prohibition in the state constitution against any legislator's appointment, during his elective term, to "any office of profit under this State. . . ." Of broader interest was the holding with regard to a provision giving the war council authority, subject only to the governor's veto power, to employ any of the surplus in the state treasury over $750,000 as a war emergency fund to supplement any appropriation or to meet any emergency in any state department. One judge dissenting in part, the court advised that this provision did not offend against canons relating to the delegability of legislative power, the exercise of administrative power by legislative members, or the obligation of the legislature to appropriate only ascertainable sums.

Post-War Planning. State post-war planning received its first constitutional analysis by any state supreme court when the Ohio judges examined the permissible membership and authority of that state's post-war program commission, created in 1943.[13] Twelve members of the twenty-one-man commission were to be the president *pro tempore* of the senate and five members appointed by the president thereof, together with the speaker of the house and five members of the house appointed by him. The principal question was whether this arrangement violated constitutional clauses which declared that "no appointing power shall be

[10] People v. Gordon, 144 P.(2d) 662 (Calif., Jan., 1944).
[11] 50 U.S.C. Sec. 31, Gorin v. United States, 312 U.S. 19, 27.
[12] Opinion of the Justices, 13 So.(2d) 674 (Ala., June, 1943).
[13] State *ex rel.* Herbert v. Ferguson, 52 N.E.(2d) 980 (Ohio, Feb., 1944).

exercised by the general assembly except as prescribed in this Constitution . . ." and which prohibited members of the general assembly from serving in any civil offices created during their legislative terms. The court answered in the negative, arguing that precedent supported such appointments if they were "'impersonal', that is, not of specific persons but merely of those who may happen to be members of a particular group at a particular time. . . ." It was observed that in the past commissions so constituted had been sustained under the constitutional authority of each house to obtain by committees or otherwise information affecting legislative action. "That practice having been accepted, if not expressly approved, as legitimate and proper for such a long period, if kept within the limitations herein indicated, we are disinclined to hold it invalid." One of the limitations "herein indicated" was that the commission must remain purely a fact-finding body. For members of the general assembly serving on the commission to undertake to lease land, or even to take options on land for prospective park sites, in the name of the state, would be to exercise "sovereign power" in such a way as to constitute them civil officers within the inhibitions of the constitution.

State Employees in Military Service: Continuing Half-Pay. A scheme described by its friends as designed to mitigate the financial hardships of families of public employees serving in the armed forces and by its critics as a shameless pressure-group raid upon the public treasury received the negative of the Pennsylvania supreme court in a veto filled with constitutional stereotype.[14] An act of 1917, which had been administered unchallenged during World War I, and which was amended in 1941–42, provided for continuing payments during the period of military service to dependents of regular employees of the state and its political subdivisions. Regardless of the need of the dependent or the length of service of the employee, payments were to be one-half of the employees' salary up to a maximum of $4,000 per year, with the further provision that in no case were amounts paid to exceed $2,000 annually in combination with the payments made by the federal government. Although the New York court recently had upheld legislation of this type as designed to recognize and reward faithful public service,[15] the Pennsylvania majority vigorously condemned the measure as "paternalism run riot," and as special legislation which created a "favored class consisting of the dependents of fewer than two per cent of those 750,000 Pennsylvanians now in the nation's war service." Thus the central issue was whether public employees constituted a separate class or whether an act which applied to but two per cent of all affected employees was arbitrary and defective special legislation.

[14] Kurtz. v. City of Pittsburgh, 31 A.(2d) 257 (Pa., Mar., 1943).
[15] Hoyt v. Broome County, 34 N.E.(2d) 481 (N. Y., May, 1941).

In the majority's view, a classification so narrowly drawn, and which in practice favored public employees over farmers, employees in private industry, and professional men, was "spurious and unsubstantial." For the Pennsylvania constitution to authorize "pensions or gratituities for military services" for *all* who rendered such services was one thing; "to interpret such a provision as authorizing gratuities to that small percentage of persons now in war service but who *were* public employees is so obviously a different thing that it should require no argument to point it out." No more warrant could be found for granting pensions only to public employees than could be found for granting them to college graduates or former carpenters. Two judges disagreed on the ground that the classification was reasonable and supported by the precedents of the workmen's compensation laws and the preference given veterans in the civil service.

Police Power. Unwilling to foster by silence "the delusion that a town may . . . defy the commonwealth and its courts," the highest court of Massachusetts soberly reviewed the weapons in its "ample armory of equity."[16] It then "commanded" the recalcitrant townsmen of Hudson to comply forthwith with an order of the state health department which required chlorination of city water as a war measure intended to guard against possible sabotage. Counsel had advanced the novel argument that "democracy is dead" unless the voters in town meeting were left free to exercise their untrammeled judgment and to refuse to appropriate money even to discharge adjudicated duties or obligations of the town.

Eminent Domain. Under the Alabama constitution,[17] a city exercising the power of eminent domain is made liable for consequential damages "for . . . property injured or destroyed by . . . its . . . works . . . or improvements."[18] Does such liability accrue where a city street is improved as a federal project under agreement with the state highway department to provide an access road to Fort McClellan military reservation? The state high court held not; the project was federal, not municipal. It had been initiated by military authorities under the Defense Highway Act of 1941.[19] It was a war measure. The fact that the federal government had been given access to the street by formal ordinance, that the ordinance approved plans for the project, and agreed to hold the state harmless against any suits that might arise, did not convert a federal improvement into one by the city. The damages suffered were to be regarded as "'loss, not injury; inconvenience, not wrong—to which every citizen must submit . . . for the public good.'"

Freedom of Religion. A new four-and-a-half million dollar air base ad-

[16] Commonwealth v. Town of Hudson, 52 N.E.(2d) 566 (Mass., Dec., 1943).

[17] Sec. 235, Constitution of 1901.

[18] Brock v. City of Anniston, 14 So.(2d) 519 (Ala., May, 1943, reh. den., June, 1943).

[19] 23 U.S.C.A. sec. 101–117.

jacent to the city of Moultrie brought an influx of construction workers and military personnel which increased the population by one-third and doubled pedestrian and auto traffic at rush hours. These facts were cited by the Georgia supreme court as valid grounds for an ordinance which prohibited sidewalk sales of "any goods, wares, merchandise, pamphlets, magazines . . . or other article of value on any Saturday between the hours of 12:00 noon and 9:00 P.M." on the principal, main congested streets.[20] The fact that the ordinance was non-discriminatory and was limited as to time and place clearly established it as a valid police regulation. Jehovah's Witnesses' arguments that their religious freedom had been infringed by its application were therefore without merit. "The constitutional guarantee of the exercise of religious freedom does not extend to acts which are inimical to the peace, good order, and morals of society."

War Housing. Efforts to relieve an acute housing shortage in the vicinity of the Charleston Navy Yard were partially frustrated by restrictions on fiscal powers in the South Carolina constitution.[21] The opinion of the court was a virtual *reducto ad absurdum* of the intent theory of constitutional construction.[22] The supreme court thought that it was axiomatic that "when the constitution was . . . adopted in 1895, sewerage systems were unknown in rural communities and could not have been in contemplation of the framers" when they used the word "ordinary" in describing county purposes for which taxes might be levied and bonds issued. Nor was it arguable that "the construction and operation of sewerage systems in the comparatively small sections of the whole large territory of the county of Charleston in which the V-Housing Corporation may construct houses for rent or sale would be of benefit to the whole." For these reasons, the court enjoined performance of the contract whereby a four-million-dollar private housing development was to have been paved and sewered by the county.

Price Control. Seldom have state courts been called upon to decide more challenging federal questions, or questions bearing more intimately upon their own powers, than those raised during the past year by sections 203, 204, and 205 of the federal Emergency Price Control Act of 1942. The first two of these sections established an administrative remedy for those protesting rent and price regulations, created the federal Emergency Court of Appeals, and endowed it, subject to review by the United

[20] Jones v. City of Moultrie, 27 S.E.(2d) 39 (Ga., Sept., 1943).

[21] The pertinent portion of the constitution reads: "Section 6, Article X; The General Assembly shall not have power to authorize any county or township to levy a tax or issue bonds for any purpose except for education purposes, to build and repair public roads, buildings and bridges, to maintain and support prisoners, pay jurors, county officers, and for litigation, quarantine and court expenses and for ordinary county purposes, to support paupers, and pay past indebtedness."

[22] Doran v. Robertson, 27 S.E.(2d) 714 (S. C., Nov., 1943).

States Supreme Court, on *certiorari*, with "exclusive jurisdiction to determine the validity" of regulations issued under the act. Section 204 (d) further provided that no other court, "Federal, State, or Territorial, shall have jurisdiction or power to consider the validity of any such regulation, or to stay, restrain, enjoin, or set aside, any provision of this act. . . ." Section 205 granted the state court concurrent jurisdiction over enforcement suits. Though it has since upheld the act as a whole and these specific provisions individually,[23] the United States Supreme Court, in the case of Lockerty v. Phillips, held merely that jurisdiction to enjoin the enforcement of regulations might be validly withdrawn from United States district courts. The question whether the constitutionality of the act or regulations might be raised in courts other than the Emergency Court of Appeals "either by way of defense to a criminal prosecution or in a civil suit brought for some other purpose than to restrain enforcement of the act or regulations . . ."[24] was expressly undecided. State courts were thus presented with these highly interesting questions: (1) Can Congress invest state courts with jurisdiction over cases arising under federal legislation and, at the same time, withhold from them power to determine the constitutionality thereof? (2) When Congress has not restricted enforcement to the United States courts, must state courts enforce a right of action created by a federal statute?

While agreeing unanimously that the substantive provisions of the federal act were constitutional, five state supreme courts reached divergent conclusions on these issues. The Alabama supreme court answered the first question affirmatively, dismissing an injunction suit brought to restrain the enforcement of the act on grounds of unconstitutionality.[25] It reasoned that a case in which the validity of a federal statute or regulation is called into question is a case or controversy arising under the constitution or laws of the United States, and hence is part of the judicial power of the United States, under Article III of the Constitution, all or any part of which Congress may withhold from state courts. The Kansas supreme court reached an opposite result.[26] Contrary to the Lockerty decision and the precise language of the statute, it entertained an affirmative action designed to test the validity of the act. Without detailed analysis, it found justification in the assertion that "whenever Congress enacts legislation and confers jurisdiction on a court to hear and decide a case, it likewise confers jurisdiction to determine whether the act is constitutional." The Indiana supreme court took an easier course.[27] It simply ig-

[23] Bowles v. Willingham, 64 S. Ct. 641 (1944); Yakus v. United States, 64 S. Ct. 660 (1944). [24] Lockerty v. Phillips, 63 S. Ct. 1019 (1943).

[25] Kittrell v. Hatter, 10 So.(2d) 827 (Ala., Nov., 1942).

[26] Ritchie v. Johnson, 144 P.(2d) 925 (Kans., Jan., 1944).

[27] Campbell v. Heiss, 53 N.E.(2d) 634 (Ind., Mar., 1944).

nored the withdrawal provision, and passed on the validity of the substantive provisions without so much as mentioning section 204(d). The Illinois and California courts managed to escape the issue by arguing that the words "stay, restrain, enjoin, or set aside," did not prevent a court, in which an enforcement action had been commenced, from considering the validity of a defense of unconstitutionality.[28] Having before them consumers' actions for penalties under the act, they deemed themselves to be within the field left open by the Lockerty opinion. But the California judges plainly intimated that the withdrawal provision would be unconstitutional if this construction were not possible.

The second question was even more significant than the first, in view of the general refusal of state courts to enforce penal acts of Congress. This refusal had been based upon the conflict-of-laws rule against supplying criminal sanctions for a foreign state. A brief resort to Article VI of the federal Constitution satisfied the Illinois supreme court that the United States is not a foreign jurisdiction. "The laws of Congress are as much the laws of this state as the enactments of our own legislature." The California judges saw less compulsion in Article VI, but held that the state courts "should willingly and unequivocally recognize a clear constitutional duty" to entertain suits on rights of action created by Congress. The power involved could not be a part of the constitutional judicial power, because that power is vested by the constitution in the Supreme and inferior federal courts, whose judges, unlike those of the state courts, are appointed by the President and hold their offices during good behavior. Hence the court rested its conclusion "upon the character of the relationship" between the national and state government, for these rights of action were not created by a "totally unrelated sovereign." The intention of the framers, early acts of Congress, and the language of Article VI all indicated, however "wavering and uncertain" may have been the course of judicial decisions, that the federal system contemplated "a utilization by Congress of the states as agencies for the execution of federal powers." ". . . the courts have increasingly recognized the coöperative nature of our federal system and that there are, in fact, no reserved state powers which may be asserted in hostility to the authorized exercise of the federal power. . . . A selfish and jealous assertion by state courts of non-existent 'sovereign' rights is untenable in the present case."[29]

[28] Regan v. Kroger Baking Co., 54 N.E.(2d) 210 (Ill., Mar., 1944); Miller v. Municipal Court of Los Angeles, 142 P.(2d) 297 (Calif., Sept., 1943).

[29] The suit here was for $50 and costs, the maximum jurisdictional limits of the small claims court under California law, and hence the consumer had chosen a court of "competent jurisdiction." This was true despite the absence of a claim for attorneys' fees (attorneys being banned by California law from small claims courts), even though section 205(e) of the federal act in terms provides for a minimum re-

II. NON-WAR CASES

A. GOVERNMENTAL ORGANIZATION AND PROCEDURE

Legislation: Power to Repeal Constitutionally Mandatory Law. The outstanding decision of the year not directly related to the war or to the war effort set aside the repeal of the Tennessee poll tax.[30] The decision aroused extraordinary interest doctrinally and historically as well as socially and politically, for it raised a simple but fundamental question which seems never to have been squarely decided by any court during a century and a half of constitutional interpretation. This question is whether a statute in execution of a mandatory but non-self-executing constitutional provision can be repealed by subsequent legislation. Opinions by the majority of the court answering in the emphatic negative not only left critics unconvinced, but injected new life into the whole poll-tax controversy. Surprisingly enough, neither the majority nor the dissenting opinions mentioned that the Tennessee legislature had once before repealed the tax as a prerequisite for voting, and that during the twenty-year period 1871–95 the levy had been purely for revenue purposes.[31]

Article II, section 28, of the constitution of 1870 provides that "all male citizens of this State over the age of twenty-one years, except such persons as may be exempted by law on account of age or other infirmity, shall be liable to a poll tax of not less than fifty cents, nor more than one dollar per annum." In 1870, at the first session after adoption of the constitution, the legislature fixed the amount at one dollar, the age limits at twenty-one and fifty years, and provided exemptions based on physical incapacity. These provisions, with amendments extending their application to "every inhabitant" (subject to the earlier age limits and exemptions) were incorporated into the code of 1932. After five years of mounting agitation, the legislature in 1943 repealed statutory provisions for the poll tax both as a tax and as a prerequisite for voting. Constitutionality of the repeal was at once attacked by taxpayers, only one of whom was

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covery of $50 "plus reasonable attorneys' fees and costs as determined by the court." In North Carolina, under whose constitution and laws the justices courts have jurisdiction of amounts not exceeding $200 and no power to award attorneys' fees, a consumer who asked $50 and attorneys' fees was held not to have selected a court of "competent jurisdiction." The question "whether . . . a justice of the peace would have jurisdiction of an action for a penalty not in excess of $200 under the Emergency Price Control Act . . . if no attorneys' fee was demanded," was expressly reserved for decision when it should arise. Hopkins v. Barnhardt, 27 S.E.(2d) 644 (N. C., Nov., 1943).

[30] Biggs v. Beeler, 173 S.W.(2d) 144 (Tenn., July, 1943); same case, 173 S.W.(2d) 946 (Sept., 1943).

[31] H. N. Williams, "The Poll Tax and Constitutional Problems Involved in Its Repeal," *University of Chicago Law Rev.*, Vol. 11, pp. 177–183 (Feb., 1944).

shown to be liable for the levy, but who nevertheless claimed that their interests were adversely affected because new taxes would be necessary to meet the deficit created by repeal. The supreme court, two judges dissenting, declared unconstitutional the section which repealed the poll tax as a revenue measure.[32]

In the view of the majority, the constitutional provision was an imperative command which the legislature, once having obeyed, could not later repudiate. To be sure, the legislature might originally have disregarded the command, and the courts would have been powerless to enforce compliance. "But, when the constitutional command has been carried into execution, and incorporated into operative law, the courts, which may not say shall, have the authority and the solemn obligation to say shall not." The majority recognized the general rule that no legislature can bind its successors. ". . . but we here deal with an exception, which we conceive to be sound in principle and compelled by a controlling constitutional mandate. We look through form to substance. In form, this act repeals former acts of the legislature, but who can deny that in substance . . . it renders inoperative a constitutional command, to the extent, at least, of a tax of fifty cents on 'all male citizens . . . over the age of twenty-one years. . . .'"

The majority conceded that in so far as the code sections had extended the tax beyond "all *male* citizens" the repeal violated no express constitutional mandate. But since there was no indication that the legislature had intended the repealing act to apply merely to women in case it should be held void as to men, the act fell in its entirety.

A dissenting opinion by the chief justice tartly observed that the court had entertained "an assault by taxpayers upon a statute which relieves them of a burden," thus disregarding the rule that one not adversely affected by a statute cannot challenge its validity. "Stripped of its eloquence and ethics, the substance of the majority opinion is that obedience to a mandate of the constitution by one Legislature introduces into that instrument a warrant to this court to compel obedience to the mandate by a subsequent legislature." Such a view showed too little regard for the separation of powers.

The second dissenting opinion, even more emphatic, decried the notion that the court was "the keeper of the conscience of the legislature. . . .

[32] The apparent ease with which the opinions confined attention to constitutionality of the act repealing the poll tax as a tax (ch. 37), in disregard of chap. 38 (repealing the tax as a prerequisite for voting and establishing a system of state-wide registration of voters), was explained by the fact that sec. 26 of chap. 38 asserted that the entire chapter was enacted in anticipation of the repeal of one of the sections repealed by chap. 37. Thus, invalidation of chap. 37 effectively blocked the entire program adopted in 1943.

We are here faced with the incongruity, if not absolute absurdity, of being called upon to yield obedience and compel obedience, to a statute that has been repealed and a constitutional provision that is admittedly not self-executing. Such a thing is unknown to the history of English and American jurisprudence."[33]

Critics of the decision[34] saw two courses open to anti-poll-tax forces. The first—amendment of the unamended constitution of 1870[35]—obviously had little to recommend it. More promising appeared to be removal of the tax as a qualification for voting by women, and repeal of the statutory requirement of the tax as a qualification for voting in primary and municipal elections. This second course was suggested by an earlier decision[36] which held primaries not to be "elections" within the meaning of constitutional clauses defining and limiting the suffrage. Such actions would permit the immediate achievement of partial objectives, and might eventually break down resistance to constitutional amendment. Careful draftsmanship might also exploit the legislative precedent created by the unchallenged repeal, in 1871, of the tax as a prerequisite for voting.

Direct Legislation: Initiative. The legislature's power to nullify an initiative measure passed at the polls was upheld by the Idaho supreme court in a decision which sustained legislative repeal of the popularly-adopted Senior Citizen's Grants Act of 1942.[36a] The court reasoned that although by the constitutional amendment of 1912, the people "as an afterthought" had "reclaimed" "the power to propose laws, and enact the same at the polls independent of the legislature," their action gave no more force "or effect to initiative legislation than to legislative acts," because no specific limitation had been placed on the legislature's power of alteration and repeal. Considerations of policy and expediency which warranted the court in thus following the weight of authority were that the procedure constitutionally incumbent on the legislature in the passage of an act insures opportunity for analysis, discussion, and amendment not present in the case of actions by the people; that between elections emergencies might require immediate modification of initiative legislation in the public welfare; and finally that the people have a dual remedy in that they may, at the next election, select new representatives or reënact legislatively repealed measures or do both. The dissenting chief justice objected that the decision rendered initiative legislation dependent upon

[33] Upon petition for rehearing, opponents tardily challenged the view that the constitutional provision was mandatory; but their arguments were deemed unconvincing.

[34] H. N. Williams, *op. cit. supra*, note 31.

[35] Combs, "An Unamended State Constitution: The Tennessee Constitution of 1870," in this REVIEW, Vol. 32, pp. 514–524 (1938).

[36] Ledgerwood v. Pitts, 125 S.W. 1036 (1910).

[36a] Luker v. Curtis, 136 P.(2d) 978 (Idaho, Apr., 1943).

the legislature, not "independent" of it, and annulled the provision of the constitution by conceding to the legislature the power to repeal initiative measures as often as enacted.

Direct Legislation: Referendum. A similarly restrictive attitude toward popular participation in the legislative process was manifested by the New Mexico supreme court. It construed the constitutional referendum clause, which exempted "public health" measures from reference to the people, as withholding from popular vote an old age assistance tax act.[37] The court found "no difficulty in sensing a valid relationship" between the "public health" as here used and a statute designed to provide senior citizens "a reasonable subsistance compatible with decency and health." It argued that statutes enacted for the protection of the public health under the police power were enacted also for the protection of the public health under the clause governing referability. The absence of the words "necessary" and "immediate" from the clause and a similar absence of any provision for the initiative, both of which were almost universal in states having the referendum, were regarded as "furnishing further proof" that the framers had an "undeniably conservative idea" about the referendum. An elaborate one-judge dissent argued that there is a commonly understood and legislatively followed difference between health and relief legislation, and that "public health" should be broadly construed for the purpose of determining the constitutionality of exertions of the police power, but narrowly construed for the purpose of determining referability.

Elections: Minority Parties. Under a general legislative provision applying to all parties whose candidates had not polled more than one per cent of the total vote cast in any election during the preceding two years, the only nominating procedure open to the Communist party in Baltimore was a certified independent petition signed by 1,500 voters who stated that they intended to vote for the person nominated.[38] These names were then to be published in a newspaper of general circulation and were to be accompanied by a fee of twenty-five cents per name to defray the costs of publication. The Maryland court of appeals held that the arrangement did not violate the secrecy of the ballot nor impose unreasonable and oppressive discrimination against minority parties. The statute was viewed as a legitimate means of preventing fraud; both the publica-

[37] State *ex rel.* Hughes v. Cleveland, 141 P.(2d) 192 (N. M., Sept., 1943). Characterizing its form as "miserably abortive . . . impossible, meaningless, and absurd," and as "drafted by the administrative branch as an eleventh-hour matter," the Montana supreme court invalidated the referendum of a gasoline tax highway bond measure on the ground that an appropriation of election costs was included and the constitutional power of referendum does not extend to appropriations of money. Burgan and Walker v. State Highway Commission, 137 P.(2d) 663 (Mont., May, 1943). [38] Munsell v. Hennegan, 31 A. (2d) 640 (Md., Apr., 1943).

tion and the fee "would make any person circulating the petition careful he did not write in names of people who did not sign." The court added arguments upholding the enactment as a reasonable regulation apart from fraud.

Elections: Disqualification for Office. A novel and direct attempt to enforce judicial abstention from active politics reckoned without the rule that legislatures may not add to constitutionally-prescribed qualifications for office: the Delaware court invalidated on this score a statute of 1941 which had made it "unlawful" for any member of the state judiciary, including a justice of the peace, to be a candidate for any elective office during his judicial term and for six months thereafter.[39]

Executive. The problem of interpreting constitutional provisions, framed exactly a century ago, so as to maintain a clearly established, responsible state executive under modern conditions of travel and communication was presented to the New Jersey supreme court.[40] The immediate occasion was a contest over the validity of a statute which the acting governor signed several hours after the absent governor had returned to the state. The outcome hinged on the meaning of the word "return" in a constitutional declaration that "in case . . . of the governor's. . . absence from the state, . . . the powers, duties . . . of the office shall devolve upon the president of the senate . . . until the governor . . . shall return. . . ." In holding that the word implied more than a physical return to the geographical bounds of the state, the court majority relied principally upon the confusion and uncertainty that would result from the physical presence standard. "Implicit . . . in the arrangements for the president of the senate . . . " to exercise the functions of the governor's office "is the correlative duty of the governor to give notice to the acting governor that he has returned . . . and . . . that he is ready to resume his executive powers and duties." Without denying the practical difficulties of the contrary holding, two dissenting judges thought it an anomalous and confusing consequence of the decision that all official acts, if any, performed by the governor after his return, but before giving the required notice, were invalid.

A general legislative restriction forbidding the governor to reappoint to the *same or any other* office, during the vacation of the senate, any nominee whom the senate had previously refused to confirm was invalidated by a three-to-two decision of the West Virginia supreme court of appeals.[41] The legislative act of 1943 being an enlargement of a constitu-

[39] Buckingham v. State *ex rel.* Killoran, Atty-Gen., 35 A.(2d) 903 (Del., Jan., 1944).

[40] *In re* An Act Concerning Alcoholic Beverages, 31 A.(2d) 837 (N. J., Apr., 1943).

[41] State *ex rel.* Downey v. Sims, 26 S.E.(2d) 161 (W. Va., May–June, 1943).

tional prohibition against such vacation reappointment to the *same* office, the majority satisfied itself with a reference to the maxim that "the expression of one thing is the exclusion of another." The two dissenters protested the majority's refusal to take cognizance of the fact, brought out in oral argument, but improperly presented in the record, that by waiting ten months until the senate had adjourned, the governor had evaded the constitutional requirement that he submit appointments to existent vacancies during a senate session.

Judiciary. Although nearly half of the states have now adopted this form of professional self-regulation, often at the initiative of the courts, and seldom without their approval, the struggle against integration of the Wisconsin bar raised interesting constitutional questions. Acting-Governor Goodland first vetoed the measure which authorized integration and then sued[42] in his joint capacity as an attorney, elector, taxpayer, and chief executive, to enjoin publication in the official state paper—publication being, under the Wisconsin constitution, the final and indispensable step in the enactment of any statute. The injunction was denied by the supreme court, although not before the Governor was admonished by the judges that, each of the three departments of government being supreme in its field, the court could not enjoin the legislative process at any point and the executive had "no more right or authority to intervene" than had the court.

The questions raised by the Governor's suit as to the validity of enactment, plus other constitutional questions framed by the court on its own initiative, were then fully argued and answered in a second opinion.[43] This opinion developed the interesting fact that Wisconsin courts heretofore had been with the minority which refuses to regard the enrolled bill as conclusive, rather permitting reference to the legislative journals on doubtful points. But "very strong and cogent reasons" were seen for not now extending this rule: unrestricted judicial inquiry could entail only uncertainty and confusion; it would be neither proper nor profitable for courts to undertake to reform the legislature's records. So long, therefore, as the ayes and nays had been taken and duly recorded, constitutional requirements were satisfied and no attacks upon the enrolled bill would be countenanced.

A more novel objection raised by the Governor was that because of many paired votes in the assembly "two-thirds of the members present," as constitutionally required, had not concurred in the passage over his veto. However, the court found that since house rules had been fully complied with, and since neither these rules not historic practice had ever re-

[42] Goodland v. Zimmerman, 10 N.W.(2d) 180 (Wis., June, 1943).

[43] Integration of Bar Case, 11 N.W. (2d) 604 (Wis., Nov., 1943; one judge dissented).

garded a paired vote as other than absent in a legislative sense, the two-thirds majority might be determined by disregarding the pairs. It was not even necessary to pair in the ratio of two for one, rather than one for one, upon vetoed measures. Moreover, since control of admissions to the bar was strictly a judicial function, within the inherent powers of the court, and subject to no outside interference, there was no merit in the argument that the statute delegated legislative power to the supreme court. Other doubts[44] were similarly resolved in favor of the statute, but the court concluded that because of the absence of so many members in military and war service "integration should not be proceeded with at the present time." This was also the conclusion of the Minnesota supreme court.[45]

Other legislative attempts to interfere with the inherent powers of the courts were condemned by the judges in less conciliatory terms. In an advisory opinion, the Massachusetts supreme judicial court informed state legislators that they could not constitutionally provide for a complete appellate court retrial of the facts of a superior court conviction for contempt —not, at least, if "the contempt was committed in the presence of the court or so near as to obstruct the administration of justice."[46] The proposed legislation was said to be "so far calculated to render inoperative the power of a trial court" as to constitute a forbidden "interference by the legislative department with the powers of the judicial department." This was true notwithstanding the legislature's admittedly broad power over the inferior courts. Decisions of the United States Supreme Court with respect to Congressional power over criminal contempts in inferior federal courts were declared to be without restrictive authority in Massachusetts, because the federal Constitution, unlike that of Massachusetts, contains no explicit provision relating to the separation of powers.

B. RIGHTS OF INDIVIDUALS

Labor. State courts have only begun to pass upon constitutionality of recent, war-time, restrictive labor legislation. In one of the first major cases, the high court of Texas upheld a mild act of 1943 which required paid labor organizers to register with the secretary of state and secure an organizers' card before soliciting union members.[47] The court held that

[44] This dissenting justice argued that integration was a matter which the "legislature . . . may, perhaps," accomplish under the police power, "but if it may it would seem that it may, for like reason, if there be any, organize the barbers and the plumbers and the machinists and the members of any other trade or class of workman into a trade or labor union. But . . . the legislature . . . may not, in my opinion, delegate the exercise of that power to this court. . . . "

[45] Petition of Integration of Bar of Minnesota, 12 N.W.(2d) 515 (Minn., Dec. 1943).

[46] *In re* Opinion of the Justices, 49 N.E.(2d) 252 (Mass., May, 1943).

[47] *Ex parte* Thomas, 174 S.W.(2d) 958 (Tex., Oct.–Nov., 1943).

since "labor unions enter into practically every business . . . and greatly affect the economic condition of the country," the right of the state under the police power to regulate them and protect the public welfare is beyond question. Nor did the requirement of registration abridge the right to speak or solicit others to join a union. The requirement was designed to prevent fraud and misrepresentation by unaccredited organizers. "The act confers no unbridled discretion on the Secretary of State to grant or withhold a registration card at will . . . ."

Much more disappointing to labor was a decision of the Alabama judges,[48] later made final by action of the United States Supreme Court, in denying *certiorari*.[49] This decision upheld as a valid exercise of the state's police power a curiously drawn statute, originally enacted in 1921, which had been thought by the lower court and some commentators to be subject to the same vice as the code section held void by the Supreme Court in Thornhill v. Alabama. The statute declared that "two or more persons who, without a just cause or legal excuse for so doing, enter into any combination, conspiracy, agreement, arrangement, or understanding for the purpose of hindering, delaying, or preventing any other persons, firms, corporation, or association of persons from carrying on any lawful business, shall be guilty of a misdemeanor." The crucial phrase "without a just cause or legal excuse," the court found to be "not without meaning legally, inherently and historically." It meant simply "unlawfully." Bottomed on this construction, the opinion advanced by broad sweeps: state and federal cases guaranteed the property right lawfully to conduct one's business without wrongful interference from others. The holding and opinion of the United States Supreme Court in Milk Wagon Drivers v. Meadowmoor Dairies left to the states "ample discretion in dealing with manifestations of force in the settlement of industrial conflicts." Far from being unconstitutional, the statute was "within the just distinction" established by the Meadowmoor case. Thus, the question certified by the lower court was decided without reference to the facts, the supreme court saying merely that "ample evidence" supported the appellant's conviction. So advised, the lower court upheld his conviction for conspiring to prevent "C. P. Hansel from carrying on . . . the business of building houses."[50]

The facts not referred to were these: members of the A.F.L. Building Trades Council picketed Hansel, bearing placards stating that the contractor was unfair to organized labor. The purpose was to force employment of union workers. Since the defendant was a member of this line, his conviction really was for picketing. The complaint alleged no vio-

[48] Lash v. State, 14 So.(2d) 229 (Ala., Feb., 1943).
[49] 64 S. Ct. 192 (1943).
[50] Lash v. State, 14 So.(2d) 235 (Ala., Mar.–Apr., 1943).

lence on the part of the defendant, but evidence was introduced to show that certain acts of violence had attended the picketing—rocks had been thrown at the houses, and, on one occasion, at automobiles of non-union workers. Overlooking the extraordinary form of the opinion, critics stressed the great "difference between an injunction to prevent violence (the Meadowmoor situation) and a conviction for conspiracy after the acts of violence have occurred in connection with picketing by those not charged with committing the acts of violence."[51]

Amid this intensifying judicial reaction[52] toward organized labor, a divided New Mexico supreme court struck down a statute, passed in 1941, which operated to the disadvantage of unorganized, migratory farm workers.[53] The statute, enacted in a number of states but hitherto constitutionally untested, required non-residents who were gainfully employed in New Mexico to register their automobiles and pay a fee; non-resident car operators not so employed, i.e., tourists, were granted a ninety-day exemption. The majority of the court could perceive no reasonable relationship between the economic purpose of the law and the regulations imposed for its attainment. Nor could the enactment rest on the state's admittedly large powers over the highways so long as tourists, who were exempt, made more use of the highways than did seasonal farm laborers. The dissenting justice argued that the legislature should be left free to choose between the competing economic theories, especially when so many other states had legislated on the same distinction "without drawing a challenge on constitutional grounds. . . ."

Jury: Exclusion of Negroes. Systematic rejection of Negro jurors by means of peremptory challenges was held consistent with state and federal due process and equal protection requirements by the Michigan supreme court in a decision that grew out of the Detroit "numbers racket" prosecutions.[54] Even though 60 defendants were on trial, giving the prosecution upwards of 300 peremptory challenges—a number sufficient to eliminate all of 30 or more Negroes on the panel—the court thought it apparent that the argument of the Negro defendant attacking the use of the challenges was untenable. To compel the prosecution either to assign a

[51] Owens, "Study of Recent Labor Legislation," *Ill. Law Rev.* p. 316 (Jan.–Feb., 1944).

[52] See Markham and Callow v. International Woodworkers of America, *supra* note 6, stated in the section on War Cases. Cf. Pittman v. Mix, 11 So.(2d) 791 (Fla., Feb., 1943), wherein the supreme court of Florida decided without difficulty that an ordinance of the town of Perry which prohibited organization of labor unions and solicitation of members and membership fees violated provisions of the Declaration of Rights relating to due process, freedom of speech and press, enjoyment of life and liberty, and acquisition, possession, and protection of property.

[53] State v. Pate, 138 P.(2d) 1006 (N. M., Mar., 1943).

[54] People v. Roxborough, 12 N.W.(2d) 466 (Mich., Dec., 1943).

cause for challenging a Negro juror or else run the risk of reversal for discrimination on account of color, would be to strip the peremptory challenge of its "basic attribute"—exclusion without statement of reason. To hold otherwise in the instant case would be to extend to members of the Negro race "a privilege . . . not granted to any other race or class." Eventual acceptance of this viewpoint may well depend on whether peremptory challenges become the basis for abuse and injustice in mass trials involving defendants of one race or sect. Substantial injustice resulting from flagrant misuse of the device to achieve indirectly an exclusion which the Supreme Court of the United States has refused to see accomplished by more direct means[55] could readily call attention to the rule that in matters involving substantive due process the fact situation is determinative. In this sense, the court's ruling and dicta are needlessly broad.

Youth Correction. Several statutes dealing with youthful offenders came under judicial scrutiny. The most comprehensive and important of these was the Model Youth Correction Authority Act sponsored by the American Law Institute and first adopted in California. That state's supreme court, in a unanimous decision, found the statute constitutionally unobjectionable.[56] The model act creates a coördinating agency, which is placed in charge of convicted offenders, aged twenty-three and younger, and excepts those whose sentences call for punishment by death, life imprisonment, ninety-days imprisonment or less, or the payment of a fine.

[55] Norris v. Alabama, 294 U.S. 587 (1935); Smith v. Texas, 233 U.S. 630 (1914).

[56] *In re* Herrera, 143 P.(2d) 345 (Calif., Nov., 1943). New Mexico's twenty-six-year-old juvenile court act also survived its first constitutional challenge. Doubts arose from two overlapping constitutional sections, one granting district courts general original jurisdiction and "such jurisdiction of special cases and proceedings as may be conferred by law, . . . " and the other vesting the judicial power of the state in "a supreme court, district courts, . . . and such courts inferior to the district courts as may be established by law . . . in any county or municipality . . . including juvenile courts." The supreme court concluded that the power to establish juvenile courts carried with it the power to grant necessary jurisdiction, and such jurisdiction included the "special cases and proceedings" which had been expressly placed at the disposal of the legislature. The fact that only county and municipal courts could be created inferior to district courts presented greater difficulties, for the reason that their judges were under special constitutional limitations as to residence and tenure. These limitations could not be met by the district court judges presiding over the juvenile courts. The court held that the state alone, not the delinquent in this case, could initiate proceedings "fraught with such fatal and weighty consequences as . . . would attend a declaration that a court which has functioned for nearly a quarter of a century never had any existence at all. Moreover, in circumstances of this sort, there may be a *de facto* officer in the absence of a *de jure* office. Finally, since this was not a criminal proceeding, constitutional guarantees as to appeal, double-jeopardy, self-incrimination, and the like did not apply. *In re* Santillanes, 138 P.(2d) 503 (N. M., Apr.–May, 1943).

The agency is vested with wide discretion as to treatment and duration of detention—ranging from giving liberty under supervision and "upon such conditions as it believes conducive to law-abiding conduct" to rigorous confinement or absolute discharge. This delegation of legislative and judicial power was held to be "well within constitutional requirements," largely on the analogy of the indeterminate sentence. The general classification was sustained against a charge of unreasonable discrimination, the court seeing "convincing reasons" in that by "reaching the offender during his formative years," the act strikes at the "roots of recidivism." Although "youth does not . . . end abruptly, to be superseded by maturity," the particular age limit was not improper since "it is a matter of practical necessity . . . and one of legislative discretion, to fix theoretical lines where there are no real ones. . . ." Nor were the exceptions unreasonable. "The legislature may properly regard life imprisonment or the death penalty as necessary for the protection of the public in the case of grave offenses, just as it may regard imprisonment for not less than 90 days or the payment of a fine as adequate in the case of minor offenses.[57]

Unable to find any "rational basis for discrimination" against younger offenders, the Indiana supreme court held inoperative as special legislation and as a denial of equal protection of the laws that part of the Juvenile Reformatory Act which required parolees from the reformatory guilty of fresh crimes to serve out their original sentences before beginning new ones.[58] The fact that no similar provision applied to offenders aged thirty or above made the classification defective.

[57] The California version of the Model Act, adopted in 1942, allowed the agency, until 1946, to select and limit the number of persons committed to it. Such selection and limitation were to be guided by the adequacy of available facilities and the likelihood of benefit to the person excepted. These were held to be "appropriate legislative standards."

[58] Dowd v. Stuckey, 51 N.E.(2d) 947 (Ind., Dec., 1943).

AMERICAN GOVERNMENT AND POLITICS

THE POLL TAX: THE CASE OF TEXAS

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The bitter controversy in Congress over anti-poll-tax legislation has revealed the need for a careful study of this subject. But rather little discriminating material has appeared. The case for poll-tax retention rests on folklore; the case for its abolition rests on propaganda, which is often more impassioned than exact. Belief in the poll tax is socially correct in the South. Logical argument is only a minor bulwark of the tax. Its main defense is the raised eyebrows that follow any questioning of the wisdom of this voting requirement. The opposition to the tax relies more on logic, but the statistics marshalled to support its case often will not stand up under close scrutiny. This article attempts to tell the story of the poll tax, with particular reference to Texas.

The difference between the poll tax as a voting requirement and merely as a revenue measure must be emphasized. Many states levy a poll tax which has nothing to do with suffrage. Maine, Vermont, Massachusetts, and Indiana—to mention only four—have this tax. Although various means of enforcing payment are used, failure to pay does not disfranchise anyone. The poll tax as a prerequisite to voting is now found in only eight states, *viz.*, Virginia, South Carolina, Georgia, Alabama, Mississippi, Texas, Arkansas, and Tennessee. North Carolina, Louisiana, and Florida formerly employed the tax as a voting qualification, but they abandoned the practice in 1920, 1934, and 1937, respectively. The distinction between a fiscal and a political poll tax is emphasized by the history of the tax in Texas. The Texas constitution of 1876—that is, the present constitution—said in Art. VIII, Sec. 1: "The legislature may impose a poll tax." Nothing was said about the tax as a requirement for voting. When the first legislature under this constitution met, in 1877, it levied a poll tax as a purely financial measure having nothing to do with suffrage. Not until 1902 was there adopted an amendment to Art. VI, Sec. 2, which reads: " . . . any voter who is subject to pay a poll tax under the laws of the State of Texas shall have paid said tax before offering to vote at any election in this State and hold a receipt showing that said poll tax was paid before the first day of February next preceding such election . . . ."

The quarter-century gap between the constitution of 1876 and the adoption of the poll tax as a voting requirement is significant for two reasons. First, it shows that the suffrage aspect of the poll tax does not date back to the end of Reconstruction, as is commonly supposed, but has

a much more recent origin. Secondly, it begs the question of the motives for passing the amendment. The standard explanation is that you have a poll tax to "keep the nigger from voting." Did the backers of the 1902 amendment intend to disfranchise white men as well? That certainly has been the result—whether intentional or not. It is easy to show that Negro-disfranchisement was not the sole motive. By 1902, the Negro section of the Republican party, the traditional Negro party, was clearly on the wane.[1] The logical time to have taken action against Negro political activity would have been when it was at its zenith some years earlier. A far more serious contender for political power than the Negro was the Populist party. This poor farmers' party spread like wildfire throughout the Western and Southern states during the 1890's. Between 1890 and 1892 the movement was organized, drawing its leaders and members partly from earlier agrarian groups. In 1892, the Populists won the electoral college vote of six Western states and sent eight congressmen to Washington. The party made great headway in the South and in 1892 gave the Democratic party a run for its life in Georgia and Alabama. In Texas, too, the Populists became a real threat to the Democrats—the first serious threat to their dominance since the end of Reconstruction. In 1892, the Texas Populists polled a sizable vote, and in 1894 and 1896 they ran close enough a gubernatorial race to cause more uncertainty as to the outcome of the election. Thus, in 1894 they garnered some 152,000 votes to the Democrats' 207,000; in 1896, the vote was 238,000 to 298,000. In 1894, Populists held twenty-two out of 126 seats in the lower house of the Texas legislature, and throughout the 1890's they succeeded in winning a large number of county elective offices.

In Texas, as elsewhere, the Populist party was clearly a party of low-income, white farmers. Its supporters lived in the less fertile agricultural areas of the state, which are referred to locally as the "post-oak strips."[2] Here was a movement of discontented small farmers who had not known prosperity for a long time. They were well organized and ably led, and they constituted a distinct threat to the entrenched Democratic party. The Negro vote was by this time declining toward insignificance, but there had arisen a threatening poor-white vote that could be discouraged by putting a price on the ballot. It seems unlikely that the dominant groups in the Democratic party whose power was challenged by the low-

[1] See H. Budd, *The Negro in Politics in Texas, 1867–1898*, University of Texas Master's Thesis, unpublished, 1925.

[2] The most complete treatment of this party will be found in Roscoe C. Martin, *The People's Party in Texas; A Study of Third Party Politics*, University of Texas Bulletin, No. 3308 (Feb. 22, 1933). See especially pp. 61–70 for evidence that the Populist party was a *poor* farmers' movement. Pp. 89–112 show that its supporters were almost entirely whites.

income Populists could have failed to see the value of the poll tax to discourage future agrarian radicalism.

Other Southern states adopted poll taxes at dates suggesting a relationship to the Populist movement. Florida started with the poll-tax requirement in 1889, followed by Mississippi and Tennessee in 1890, Arkansas in 1892, South Carolina in 1895, Louisiana in 1898, North Carolina in 1900, Alabama and Virginia in 1901, and Georgia in 1908. Further investigation would be required to uncover the whole story of the origin of the poll-tax requirement. However, enough facts are available to show that Negro disfranchisement was not the sole motive—or even the most impelling motive—for making the poll tax a prerequisite for voting.

Three standard and time-honored arguments support the retention of the poll tax as a voting prerequisite. They are: that it is necessary to maintain "white supremacy," that it is essential to the support of the schools, and, finally, that it is useful in keeping government in the hands of "the better class of people." Much more rarely there occurs the distinctively Texan argument that the poll tax is a method of registering voters.

Let us take up these arguments one at a time and subject each to a critical evaluation. The one relating to registration requires least comment. Texas is one of the three states that have no system of personal registration. Poll tax payment is the closest approximation to such registration or listing of the qualified voters. As a substitute for a system of registration, the tax serves in a fashion; but it has some obvious weaknesses. Persons over sixty are not required to pay a poll tax. Such persons living in cities of 10,000 or more are required to secure an "exemption certificate," but those residing in smaller communities need not secure this document. Persons who lose their poll-tax receipts before election may swear an affidavit at the voting booth that they have paid the tax but mislaid their receipts; then they are permitted to vote. Poll taxes must be paid by January 31. Texas primaries occur in July and August; general elections, of course, are in November. Thus, the period of time between qualifying one's self to vote and voting is considerably longer than under the average registration system. The Texas poll tax is a crude equivalent of a registration system. However, it utilizes none of the improved procedures developed by the states that have had the longest experience with registration systems. It is no argument for the poll tax to hold that repeal would necessitate a registration system. Texas needs a good registration system whether the poll tax is abolished or retained.

"The poll tax keeps Negroes from voting"—here is another standard justification of the tax. The belief that the poll tax is essential to "white supremacy" constitutes the unspoken major premise of many defenders of the tax. It follows, then, that a foe of the poll tax disbelieves in "white

supremacy" and is a "nigger lover." A brief answer to this type of confused thinking is to point out, first, that if one is out cold-bloodedly to disfranchise the Negro, the poll tax is an ineffective way of doing it, and, second, that the poll tax disfranchises many more whites than Negroes in Texas. In Texas, at least, the poll tax is primarily a "white man's issue."

According to the 1940 census, only 14.4 per cent of the population of the state is Negro, as compared with 14.7 per cent in 1930. One has to go back to 1880 to find a Negro population of as much as 25 per cent, and the Negro percentage has declined with each census since 1880. Although these facts seem obvious, one hears among the uninformed many whispered justifications of the poll tax on the ground that "the niggers outnumber the whites in Texas."

"The poll tax keeps the nigger from voting and preserves white supremacy," says folklore. But the assertion ascribes to the tax a magic effectiveness that it does not have. For years, many Texas Negroes have voted in elections other than the Democratic primaries. If a Negro pays his poll tax, he may legally vote in the November general election or in a municipal election, restrained only by possible frowns of white election officials or other forms of social control apart from law. It is the "white primary" rule that has excluded the Negro from the politics of Texas. The Democratic primary is the only Texas election that counts; and until April, 1944, the federal Supreme Court had upheld the right of a political party to exclude Negroes from its primary. A poll tax receipt had no bearing on the situation.

On April 3, 1944, the Supreme Court, in Smith v. Allwright, held the Texas white primary unconstitutional One may have conceded all of the foregoing, yet feel that with the white primary gone, the poll tax is now truly "essential to white supremacy." A reply to this type of reaction calls for a clearer definition of "white supremacy." Unless the Negro is restrained from the primaries by violence, we shall have the interesting situation of Negroes who have paid their poll taxes voting in the Democratic primary while two-thirds of Texas' white electorate fail to participate in this election—to a large extent because of failure to pay the poll tax. Is this white supremacy?

Definite figures on voting may be useful. In 1940, Texas had some 3,168,000 potential white voters, i.e., white citizens twenty-one or over, and about 540,000 potential Negro voters. The largest vote ever cast in any Texas election was in the Democratic primary of 1940, when 1,189,290 white Texans cast ballots for gubernatorial candidates—about 37.5 per cent of the potential white electorate. The average participation in Democratic primaries is usually nearer 33 per cent of the white electorate.

The foregoing figures raise the intriguing question whether you have "white supremacy" when a poll-tax-paying Negro can vote and two-

thirds of the white population do not. Would not "white supremacy" be better served by repealing the poll tax and encouraging the non-voting two-thirds of the white population to rise to the level of the Negro voter?

That the poll tax is not essential to "white supremacy" is further demonstrated by the experiences of the three Southern states that have repealed it, *viz.*, North Carolina, Louisiana, and Florida. Needless to say, the Negroes have not taken over the governments of these states; nor has there been an appreciable increase in Negro political power. Incidentally, Negroes constitute a larger percentage of the population in all three of these states than in Texas—in 1940, 27.5 per cent in North Carolina, 36 per cent in Louisiana, and 27 per cent in Florida. Special note should be taken of North Carolina, where the Negro percentage is twice that of Texas, and where the poll tax prerequisite has been out for twenty-four years. "White supremacy" still prevails in North Carolina.

Another standard defense of the poll tax as a prerequisite for voting is that it is "essential to the support of the schools." The worthy purpose for which part of each $1.75 poll tax is spent is the justification. This type of argument confuses the poll tax as a source of revenue with the poll tax as a suffrage qualification. North Carolina abolished poll-tax payment as a voting prerequisite, but has retained the tax as a source of revenue for education. Several of the Northern states that levy this tax use its revenues for educational purposes. In Texas, repeal of the 1902 amendment to the constitution—the amendment which made the tax a voting prerequisite—would leave the poll tax intact as a revenue measure. Hence, discussion of the poll tax as essential to school income is beside the point.

In yet another sense, the defense of the poll tax as a revenue measure has a hollow ring. Few taxes are as poorly enforced as the poll tax. The tax is actually enforced only against real estate owners who are delinquent in the payment of their general property taxes. The law requires that when settlement is finally made on these late taxes all back poll taxes shall be paid also. In all other cases, the tax is purely optional. No penalties are assessed against those who fail to pay; no policeman comes to the door to collect from delinquents. There is no doubt that considerably more revenue could be secured from the poll tax by enforcing it. If one is really concerned about money for the Texas schools, the answer is that a more vigorous effort should be made to collect the tax. But no one wants to see the tax enforced. The poll tax is essentially a "cover charge on the right to vote." Its main purpose is to limit the electorate; the money it brings in is a by-product. The fiscal aspect of the tax is subordinated to the political.

The last of the classic defenses of the poll tax is the claim that it "keeps government in the hands of the better class of people." More frequently, the idea is stated negatively: the tax excludes from the polls "the corrupt,

the illiterate, the ignorant, the disinterested, and the trifling." This contention assumes three things: that there are those who are worthy of possessing political power and those who are not, that in principle the poll tax is an effective test to distinguish between the two groups, and that in practice it avails to exclude the unworthy.

To the contention that the poll tax excludes the corrupt and the purchasable voter from the polls, the most direct answer is: it doesn't—unfortunately. Poll taxes can be paid by political machines for the "ignorant and corrupt." Such persons then go to the polls armed with receipts that have been given them. All evidence points to the fact that such practices are common throughout the poll-tax section of the country all the way from Alexandria, Virginia, to El Paso, Texas. Obviously, this is a matter on which no complete statistical information is available; we cannot state positively that a certain per cent of all poll taxes paid in the South were paid by persons other than those to whom the receipt was made out. However, national poll-tax hearings abound with testimony about poll-tax corruption in Tennessee.[3] In Virginia, a discrepancy was found between the number of tax receipts issued by several county treasurers and the funds turned into the state comptroller for poll-tax payments.[4] Obviously, the treasurers had been too generous in issuing blocks of tax receipts to their friends on promises to pay and then had been left "holding the bag" when their friends failed to pay up. In Arkansas, a legislative investigating committee discovered that block-buying of poll-tax receipts and their distribution to the faithful was a standard practice in and around Little Rock.[5] South Texas and the Rio Grande Valley are the sections of Texas where these practices seem most prevalent. The story of this type of corruption was aired by a Texas senatorial investigating committee and, on another occasion, by a committee of the U. S. House of Representatives.[6] However, there is no evidence to indicate that either investigation resulted in any lessening of the practices in question. In short, local political machines see to it that enough of the "corrupt and ignorant" are permitted to vote to ensure a machine victory. Incidentally, in Texas the payment of other people's poll taxes is safer than in most states because one can be sure that the purchased voter will vote as paid. Each Texas ballot bears a

[3] *Hearings before a Sub-Committee of the Committee on the Judiciary*, U. S. Senate, 77th Cong., 2nd Sess., Vol. I, pp. 171–176. [4] *Ibid.*, p. 91.

[5] This report appeared originally in Little Rock's *Arkansas Democrat* of Feb. 18, 1937. Exerpts may be found in *Hearings*, I, pp. 277–278. See *ibid.*, pp. 278–281, for instances of this practice in other sections of Arkansas.

[6] The Texas senate's investigation arose out of a contested election and is published as *Glasscock v. Parr, Supplement to the Senate Journal, Regular Session of the 36th Legislature, 1919.* The other document is *U. S. House of Representatives, 70th Cong., 2nd Sess., Report No. 2821.* It contains the results of an investigation by the Select Committee to Investigate Campaign Expenditures.

number, and this same number appears opposite the voter's name in the poll-book. Since the number remains on the ballot after casting, election officials may easily check and see that a purchased voter "delivered the goods."

If one continues to assume that the poll tax excludes from politics the ignorant and those unfitted to vote, it should follow that with this hand-picked, blue-ribbon electorate the poll-tax states would have sent to Washington considerable numbers of outstandingly able congressmen. Unhappily, this has not been the case. On the contrary, the poll-tax states have produced precious few outstanding public servants, and they have been responsible for more than their share of demagogues. Alabama's Tom Heflin and Mississippi's "the man Bilbo" are two examples of demagogues that have come up via the poll-tax route. It was Louisiana that perpetrated Huey Long on the U. S. Senate before repealing its poll tax. Tact and the wartime paper shortage prevent a considerable lengthening of this list.

"The poll tax keeps out the disinterested," and "a man who isn't interested enough in his government to pay his poll tax shouldn't be allowed to vote," are two variations of this aristocratic theory of the suffrage. The first statement carries its own refutation; if a man is not interested in voting, no poll tax is necessary to keep him from voting. A device to disfranchise those who do not want to vote is an absurdity. The second statement is often made in ringing tones as if it were the last word on the subject. Let us state the idea in reverse. "If a man is interested enough in his democratic government to want to vote, he should not be made to pay for the privilege." After this statement has been repeated a few times, it, too, develops an impressive ring.

At times, it is "the illiterate and the ignorant" that are said to be kept from the ballot-box by the poll tax. Two-thirds of the adult whites in Texas do not vote. It might be inferred that all of these persons are in the "illiterate and ignorant" group. No champions of the poll tax ever draw this thoroughly reasonable inference. "Illiteracy"—inability to read—is a more specific term than "ignorance." If one were really interested in excluding the illiterate, a test of literacy could readily be given. Some non-political agency, such as the schools, could administer a simple test, or a sixth grade education could be substituted for the test. Non-payment of a poll tax is no more a measure of ignorance than it is of illiteracy. To give a Wassermann test and to permit only those who have a negative reaction to vote would be little more far-fetched. The exclusion of the illiterate and the ignorant may be desirable, but there is no demonstrable relationship between poll-tax payment and wisdom or education. Even if one clings insistently to the idea that there is such a relationship, he must justify $1.75 as the dividing line. If $1.75 keeps government in the hands of the

literate and the educated, a tax of ten dollars or one hundred dollars would keep power in the hands of a still choicer electorate. Any argument that justifies a $1.75 tax on the right to vote can be used to justify any higher amount.

Much less frequently, a friend of the poll tax comes out and defends it on the ground that "it keeps government in the hands of the better class of people." Such frankness clarifies the position of the champions of the poll tax. This reference to the "better class of people" hardly squares with democracy. One is reminded of the "new French State" as envisaged by Marshal Henri Pétain. As reported in the *New York Times* of July 9, 1941: "He [Pétain] rejected at the outset the idea of arbitrary equality and universal suffrage which had been the basis of the French Republic . . . in their place he proposes to establish liberty founded upon the selection of the élite in each of the main groups of the community."

Even when the friends of the poll tax are not so frank about the "better class of people," one may still question the staunchness of their faith in democracy. The frequent references to large classes of Americans as "vicious," "irresponsible," "corrupt," "illiterate," "ignorant," "uneducated," "uninterested," "trifling" seem to reveal a basic distrust of the common man and his motives. One is impelled to wonder whether many people who "reject at the outset the idea of arbitrary equality and universal suffrage" are not fellow-travelers of Marshal Pétain. One is left with the vague feeling that many of the friends of the poll tax hold with Alexander Hamilton that: "All communities divide themselves into the few and the many. The first are the rich and well-born, the other the mass of the people. . . . The people are turbulent and changing; they seldom judge or determine right."

The case of the opponents of the poll tax is simple. They hold that it disfranchises large numbers of American citizens for an arbitrary reason that has nothing to do with ability to participate in government. A few incidental arguments can be thrown in. In Texas (as well as five other states), it discriminates in favor of the aged. Texans over sixty need not pay the tax. With such issues as eligibility to old age pensions and the amount to be paid as hot issues of Texas politics, the recipients of pensions are in a fine position to demand bigger and better ones. "Pappy" O'Daniel, campaigning on bigger pensions for the old folks, never lost any votes because of this provision of the law.

Far from the poll tax "keeping government in the hands of the better class of people," it probably facilitates the control of the purchasable vote. It is not that the poll-tax states have any monopoly on political corruption; it is merely that the poll tax makes corrupt control more absolute. In every state there is a certain number of persons whose votes are for sale; where the total vote is small, as under a poll-tax régime, the rela-

tive influence of this venal group is greater. In Texas, the requirement that the tax be paid six months before an election contributes to the same end. The independent voter may forget to pay the tax by January 31, but the corrupt political machine never forgets. It makes it its business to remember to purchase some spare poll-tax receipts before the January 31 deadline.

The poll tax discourages voting by the lower-income groups. The tax is a trifle for the well-to-do; to the poor man, it may represent the price of a pair of shoes. In the years 1935–36, the median cash income of American families and single wage-earners was $1,070 a year—that is, half had incomes above and half had incomes below that amount.[7] Although no comparable figures are available for Texas alone, we know that it is not one of the wealthier states. A reasonable guess would put the median family income in Texas at $800 a year. Poll taxes for husband and wife total $3.50—nearly one-half of one per cent of the median family income. Having to pay this "cover charge" on the right to vote six months before the right may be used makes the position of the low-income family more difficult still. The poor family must decide between spending $3.50 for groceries now or using it for an abstract right to be exercised six months later. The wealthier are spared making this painful decision. They can have their vote and eat too. Since wealth is no test of ability to participate in government, the tax is undemocratic.

Admitting that the poll tax makes it hard for the poor man to vote, how many people does it actually disfranchise? If only one-third of Texas's potential white electorate votes, is the non-voting two-thirds restrained by the poll tax alone? Clearly not. The extensive non-voting in other than poll-tax states shows that there are other causes. It is sometimes argued that the poll tax actually disfranchises no one since the amount is so small that anyone *could* pay it. Yes, if one's annual cash income were only $1.75, he could pay his poll tax and buy the right to vote. This contention is logically sound, but it rests on an overly strict use of the word *disfranchise*. The poll tax *disfranchises* people in the sense that among lower-income groups the marginal utility of each $1.75 is too great to permit its use for anything other than food, clothing, or shelter.

There are several bases for estimating the disfranchising effect of the poll tax. One method is a before-and-after study of voting participation in those states that have abolished the tax as a qualification. These states are, it will be recalled, North Carolina, Louisiana, and Florida. North Carolina is not useful for these purposes because it abolished the tax the same year women were enfranchised. Hence it is not possible to distinguish how much of the increased vote stems from the repeal of the tax

[7] National Resources Committee, *Consumer Incomes in the United States; Their Distribution in 1935–36* (Washington: Government Printing Office, 1938), p. 6.

and how much from the removal of the ban on women voting. However, if we take before-and-after participation figures for Louisiana and try to eliminate irrelevant factors, we may be in a position to conclude that any increased participation following repeal is caused by repeal.

In dealing with election statistics, it is generally more meaningful and accurate to use the returns of the Democratic primary. The use of general election figures to estimate the effect of the poll tax in the South is often highly misleading. Thus it is sometimes argued that because only 17 per cent of the adult population of poll-taxed Alabama participated in the 1940 presidential election, compared with a 73 per cent average for the non-poll-taxed states, the poll tax is the cause of Alabama's poor showing. Two other obvious causes are overlooked, *viz.*, absence of a serious contest for the state's electoral college vote and the disfranchisement of the Negro by means other than the poll tax. Since it was a foregone conclusion that Alabama's electoral vote would go Democratic, there was no incentive for Alabama voters to flock to the polls to perform the superfluous task of voting Democratic. Alabama's sizable (over one-third) Negro population is disfranchised by educational tests (applied in baldly anti-Negro manner), by an environment hostile to Negro assertiveness, and by other methods. An Alabama Negro could pay his poll tax and still be disfranchised. Use of Democratic primary figures eliminates these weaknesses. Since the primary is the South's one election that really counts, there is no question about the absence of a contest. The complete exclusion of Negroes from the primary in accordance with the "white primary" rule eliminates the other misleading factor.

With these preliminaries out of the way, let us turn to a before-and-after study of Louisiana. The *potential white electorate*, it will be recalled, is the total number of white citizens twenty-one years old or over. Since it changes continually, the figures must be corrected for population growth.[8] Repeal occurred in 1934. See Table I.

Prior to repeal, the participation in the Democratic senatorial primary was 37 per cent and 41 per cent in 1930 and 1932, respectively. In 1936, the first primary after repeal, the participation was 65.7 per cent—an increase of between half and two-thirds. In the primary race for governor,

[8] The potential white electorate of the years 1930 and 1940 is available from the census breakdowns. In 1930, the potential white electorate was 33.5 per cent of the total population; in 1940, it was 37.7 per cent. Thus, it increased 4.2 per cent in the ten-year period. It is a reasonable assumption that the rate of increase was uniform. Thus, every two years the potential white electorate would increase by one-fifth of 4.2 per cent or, .84 per cent. The potential white electorate of 1930 was 33.5 per cent of the total population; in 1932, it would be 33.5 per cent plus .84 per cent, or 34.3 per cent. Total population figures for 1932 are available from the Census Bureau's inter-census estimates. The potential white electorate of 1932 is 34.3 per cent of the total population figure of that year.

the increase from 51 per cent to 66 per cent and 62 per cent is somewhat less dramatic. However, a one-quarter increase in participation is significant. Figures for the years 1942 and 1944 are omitted. Wholesale absence from the state for military service or defense jobs would introduce a

TABLE I

PARTICIPATION IN LOUISIANA PRIMARIES[9]

Year	*Potential White Electorate*	*Participation Senator*	*Per Cent Participation Senator*	*Participation Governor*	*Per Cent Participation Governor*
1930	704,327	261,091	37.0		
1932	743,032	306,399	41.2	379,949	51.0
1934	777,990				
1936	815,649	536,579	65.7	540,370	66.2
1938	851,953	uncontested			
1940	891,601			553,723	62.1

variable factor producing misleading results. It will be recalled that participation throughout the country in the 1942 election was extremely low.

The story relative to Florida, where the tax was repealed in 1937, is similar (see Table II). In the 1934 senatorial primary, the participation was 31 per cent; in 1938 and 1940, the figure was 51 per cent for both years. In the governor's race in 1932 and 1936, the participation was 43 per cent and 44 per cent, respectively. After repeal in 1937, the figure jumped to 54.8 per cent.

TABLE II

PARTICIPATION IN FLORIDA ELECTIONS

Year	*Potential White Electorate*	*Participation Senator*	*Per Cent Participation Senator*	*Participation Governor*	*Per Cent Participation Governor*
1930	590,224	uncontested			
1932	633,550			276,710	43.6
1934	675,431	213,897	31.6		
1936	735,183			328,749	44.7
1938	807,864	415,293	51.4		
1940	877,599	449,934	51.2	481,437	54.8

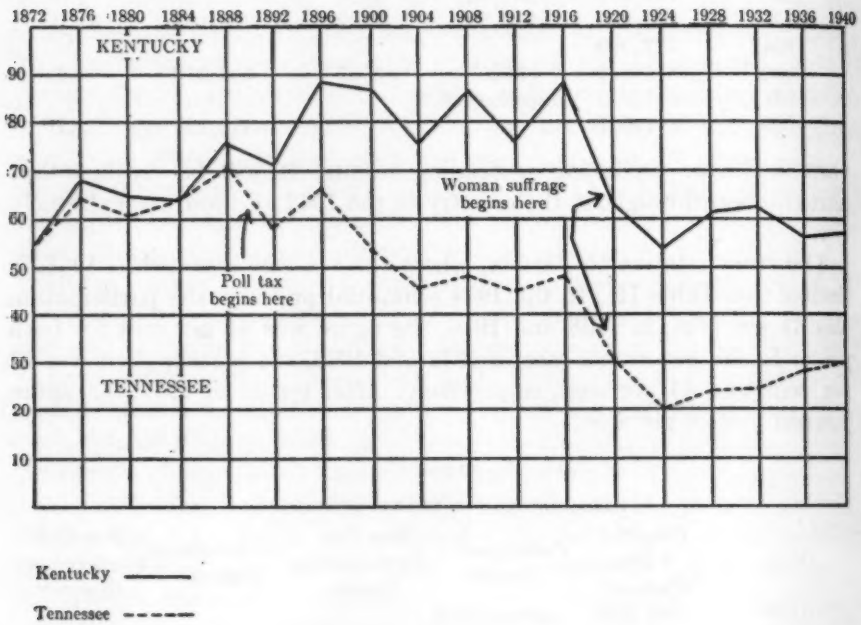
Our findings concerning Lousiana and Florida are, then, that poll-tax repeal has been followed by increases in Democratic primary participation ranging from one-quarter to two-thirds.

Another method of estimating the disfranchising effect of the poll tax is to compare voting participation in Kentucky and Tennessee. Kentucky has never had a poll tax; Tennessee enacted one in 1890. Beginning with that date, Tennessee's voting participation declined sharply; in the last

[9] These election figures are published by the Louisiana secretary of state.

quarter-century, it has fallen to half that of Kentucky. At no time in the twentieth century has a majority of the Tennessee electorate voted; yet throughout this period, Kentucky has always had a majority vote. The accompanying chart tells the story of participation in the presidential elections of 1872–1940. Per cent of participation is figured in terms of adult males prior to 1920; after the enfranchisement of women in that year, it is based on the total adult population.

PER CENT OF VOTER PARTICIPATION IN PRESIDENTIAL ELECTIONS



When comparing two states to estimate poll-tax disfranchisement, one encounters the hazard of factors other than the poll tax causing the differing rates of voting participation. However, Kentucky and Tennessee are strikingly alike in most important respects. They have almost equal populations and almost equal potential electorates. Neither is a completely "safe" Democratic state; there is a real contest for the electoral college vote of each (see Table III).[10] Although Tennessee is normally Democratic by a higher percentage, it has actually gone Republican twice (1920 and 1928) to Kentucky's once (1924). Tennessee has a higher percentage of Negroes in its potential electorate—18 as against Kentucky's 8.5, based on the 1940 census. Tennessee's larger per cent of

[10] Table III and the chart are based on *Hearings*, I, pp. 55–60.

TABLE III

PARTY VOTE IN THE PRESIDENTIAL ELECTIONS OF KENTUCKY AND TENNESSEE

Kentucky		*Tennessee*	
1872		1872	
Democrat	99,995	Democrat	94,218
Republican	88,766	Republican	84,930
Other	2,375		
	191,134		179,148
1876		1876	
Democrat	159,690	Democrat	133,166
Republican	97,156	Republican	89,596
Other	1,944		
	258,790		222,762
1880		1880	
Democrat	149,068	Democrat	130,381
Republican	106,306	Republican	98,760
Other	11,499	Other	5,508
	266,873		234,649
1884		1884	
Democrat	152,961	Democrat	133,324
Republican	118,122	Republican	124,093
Other	5,830	Other	2,132
	275,913		259,550
1888		1888	
Democrat	183,800	Democrat	158,779
Republican	155,134	Republican	138,988
Other	5,225	Other	5,977
	344,159		303,734
Poll Tax Begins in Tennessee			
1892		1892	
Democrat	175,461	Democrat	136,594
Republican	135,441	Republican	99,851
Other	23,500	Other	28,529
	334,402		264,974
1896		1896	
Democrat	223,004	Democrat	170,953
Republican	218,171	Republican	149,703
Other	4,781	Other	3,140
	445,956		323,798
1900		1900	
Democrat	234,899	Democrat	145,356
Republican	226,801	Republican	123,180
Other	3,584	Other	4,295
	465,284		272,831

Kentucky—(Cont.)

1904	
Democrat	217,170
Republican	205,277
Other	10,211
	432,658
1908	
Democrat	244,092
Republican	235,711
Other	9,947
	489,750
1912	
Democrat	219,584
Republican	115,512
Other	102,766
	437,862
1916	
Democrat	269,990
Republican	241,854
Other	7,770
	519,614
1920	
Democrat	456,497
Republican	452,480
Other	10,734
	918,711
1924	
Democrat	374,855
Republican	398,966
Progressive	38,465
Other	3,046
	815,332
1928	
Democrat	558,064
Republican	381,070
Other	1,470
	940,604
1932	
Democrat	589,574
Republican	394,719
Other	7,773
	983,066

Tennessee—(Cont.)

1904	
Democrat	131,653
Republican	105,369
Other	3,260
	240,282
1908	
Democrat	135,608
Republican	118,324
Other	2,170
	256,102
1912	
Democrat	130,335
Republican	59,444
Other	57,217
	246,996
1916	
Democrat	153,282
Republican	116,223
Other	2,689
	272,194
1920	
Democrat	206,558
Republican	219,829
Other	2,239
	428,626
1924	
Democrat	158,404
Republican	130,882
Other	10,771
	299,957
1928	
Democrat	167,343
Republican	195,388
Other	742
	363,473
1932	
Democrat	259,817
Republican	126,806
Other	2,020
	387,643

Kentucky—(Cont.)		*Tennessee*—(Cont.)	
1936		1936	
Democrat	541,944	Democrat	327,083
Republican	369,702	Republican	146,516
Other	14,555	Other	1,955
	926,211		475,554
1940		1940	
Democrat	555,678	Democrat	348,267
Republican	411,145	Republican	167,564
	966,823	Other	1,955
			517,786

Negroes probably contributes to the lower rate of participation. However, neither of these two factors explains the degree of difference in participation or the striking decline in the Tennessee vote immediately after the enactment of the poll tax.

If it is not possible to compute exactly how many Texans the poll tax disfranchises, the foregoing statistics at least give considerable insight into the disfranchising effect of the tax. They show clearly that the poll tax does keep people from voting, and they make possible an intelligent estimate of the number of persons thus disfranchised. We may reasonably assume that repeal of the Texas poll tax would be followed by increases in voting participation similar to those in Louisiana and Florida—that is, an increase of one-quarter to two-thirds over the usual rate of participation.

Efforts to repeal the poll tax are being made on both a state and a federal basis. Ignoring the question of which approach is more politically feasible, it is clear that action on a state level would be more thorough. State action could eliminate the tax as a prerequisite for voting for either state or national officers; federal action could hope to do no more than give a free vote for national officers—as will be explained below.

An amendment to the Texas constitution would be necessary to rid the state of the poll tax. Mere legislative action to repeal the act of the legislature which levied the tax would not be sufficient. The Texas constitution makes one reference to the poll tax which we have not yet examined. The original 1876 version read (Art. VII, Sec. 3): "There shall be set apart annually not more than one-fourth of the general revenue of the state, and a poll tax of one dollar on all male inhabitants of this state between the ages of twenty-one and sixty years, for the benefit of the free public schools." An amendment changed the phrasing to one-fourth of the "state occupation taxes," and woman suffrage necessitated a change to "every inhabitant"—not merely *male* inhabitants. Hence, the present

version reads: "One-fourth of the revenue derived from the state occupation taxes and poll tax of one dollar on every inhabitant of the state between the ages of twenty-one and sixty years, shall be set apart annually for the benefit of the free public schools . . . .

On the face of it, this latter clause seems merely to allocate one dollar of each poll tax for educational purposes. However, the Texas courts have ruled that this clause actually levies one dollar of the poll tax. The case that makes this ruling is an old one, but it has not been reversed, and it is referred to by attorney-general's rulings as a settled matter of Texas law. Solon v. State,[11] the case in question, is a decision of the Court of Criminal Appeals in 1907. The judges give no lengthy reasoning to support their decision; they merely state very emphatically that the constitution does levy the poll tax. The relevant part of the decision reads: "Under the provision of Section 3, Article 7, of the constitution there is, in express terms, levied in this state a poll tax on every male inhabitant thereof between the ages named therein . . . such poll tax is fixed without the necessity of legislative action. The provision standing alone is definite, fixed, and as certain as any legislative action can make it . . . this provision of the Constitution is self-executing and in terms levies a poll tax on all persons between the ages named. . . ."

If less convincing than some of the opinions of Marshall and Holmes, the case is certainly the prevailing law. Fifty cents of the poll tax is levied by mere statute,[12] but the remaining dollar is "in the constitution." The best procedure of constitutional amendment would probably be to repeal Art. VI, Sec. 2—the 1902 amendment that makes poll-tax payment a prerequisite for voting. Then the tax could remain as a fiscal measure and as a source of revenue for the schools. Of course, it would be theoretically possible to secure a reversal of the Solon case and then to repeal the poll-tax levy by simple legislative act. Under this procedure, the 1902 amendment would presumably be meaningless, for a non-existent poll tax could hardly be made a voting prerequisite. However, this method would be roundabout and probably more difficult to carry to a successful conclusion than an open attack on the 1902 amendment.

The hope for federal action is embodied in an anti-poll-tax bill already passed by the House, but still pending in the Senate. This measure would prohibit states to make poll-tax payment a prerequisite for voting for federal officers—president, vice-president, senators, and representatives. The constitutional peg on which the backers of the legislation hope to hang it is Art. I, Sec. 4, which permits the national government to regulate "the times, places, and *manner*" of electing senators and representa-

[11] 54 Crim. Rep. 261, 114 S.W. 349.

[12] The remaining 25 cents of the $1.75 is levied by the county, although it is, of course, statutory law that authorizes the county to levy it.

tives. Poll-tax elimination, the federal bill avers, would lessen electoral corruption; therefore, since safeguarding the honesty of federal elections—that is, seeing that they are conducted in an honest *manner*—is clearly within the power of Congress, poll tax elimination would be a legitimate exercise of federal power. The House of Representatives was apparently convinced by this line of constitutional reasoning, for it approved the bill by a majority of 265 to 110. Although the constitutional clause involved refers only to the election of senators and representatives, the Supreme Court has ruled on several occasions (notably Burroughs v. U. S., in 1934) that Congress has the power to regulate the selection of presidential electors and to protect the process against corruption. Furthermore, the champions of federal anti-poll-tax legislation received aid and comfort from the recent (1941) Supreme Court decision in U. S. v. Classic, in which the Court made the startling ruling that the election of congressmen is a right given to the people by the United States Constitution (Art. I, Sec. 2).

Admittedly, the constitutionality of federal action is debatable. However, many of the changed meanings that have been read into the Constitution throughout American history are much less plausible than this one would be. For those who feel strongly enough about the unconstitutionality of federal anti-poll-tax legislation to pound the table, U. S. v. Classic is required reading.

FOREIGN GOVERNMENT AND POLITICS

FOOD FRONT IN AUSTRALIA

HOWARD DANIEL AND MINNIE BELLE
Australian War Supplies, Washington, D.C.

Before the war, Australia was a great food-producing country—in fact, she had, per capita, the greatest food supply in the world—yet there was no one department in the Commonwealth government in which the task of administering that food supply was centralized. No constitutional or statutory basis existed for control by the Commonwealth of food production, processing, and distribution. Agriculture was a function of the individual states, all of whom maintained separate departments of agriculture. Since the export of certain basic agricultural products such as wool and wheat was essential to the economy of Australia, a loosely-knit system of marketing boards affiliated with the Commonwealth Department of Commerce had developed to supervise the sale of these commodities. However, several of these boards, such as the Dairy Produce Board and the Dried Fruits Export Control Board, which had derived their powers originally from special legislation, experienced difficulties because of constitutional restrictions. In 1936, the Privy Council declared invalid a series of marketing laws relating to dried fruits, dairy products, and wheat. Section 92 of the Constitution, which requires free trade among the states, was interpreted by the Council as constraining the Commonwealth as well as the states. Under the wartime emergency powers granted to the Commonwealth by the National Security Regulations of 1939–40, these agencies and many additional similar ones received legal basis.

This pre-war system of marketing control by trade boards under government supervision was expanded to meet wartime problems. Additional boards created under the National Security Regulations to handle the commodities indicated in their titles were the Australian Barley Board, Australian Wheat Board, Australian Rabbit Skins Board, Central Wool Committee, Dairy Produce Control Committee, Australian Hide and Leather Industries Board, and the Apple and Pear Marketing Board. Until Pearl Harbor, the objective in food-control administration was still primarily the preservation of export trade in the face of shipping difficulties and the loss of overseas markets. Australia still had the job of helping to feed Great Britain. Thus these marketing boards continued to assist the government in negotiations with the United Kingdom about price and other conditions of the disposal of products; they advised the Department of Commerce on, or were themselves responsible for, the administration of the various acquisition and purchase plans for Australia's agricultural exports.

After the Japanese entry into the war, Australia became important as an Allied supply base and the objective of food control shifted. The emphasis now was to produce and distribute food for the Allied forces as well as for Great Britain and home use. Now the question was how to get enough food, and of the kinds needed, rather than how to dispose of exportable surpluses. How successfully the food front in Australia has been held is evident from the figures of the amounts of food furnished by Australia to the armed forces of the United Nations in the Southwest Pacific. Every American and Allied service man in this area is being fed by Australia and New Zealand on a ration scale comparable to the basic allowance of the American Army.

An organization to handle this tremendous and constantly expanding food front in Australia could not be created overnight, but, as indicated above, the pre-war nucleus of commodity boards was utilized in the new program. The chief problem of the mobilization of the food front has been the achievement of actual and effective coördination in a government set-up somewhat top-heavy with many separate boards and committees. This was made even more difficult because of the existence of separate state agencies dealing with agricultural problems, and also by the presence in Australia of representatives of the Allied forces who had to be included in any planning of a food program. One coördinating agency had been in existence since 1934—the Australian Agricultural Council, which consists of the state ministers of agriculture and the Commonwealth minister of the Department of Commerce. It provides for continuous consultation among the state governments on the economic aspects of primary production. A permanent technical committee associated with it handles the technical aspects of production, the quarantine of pests, and research. Several factors, however, contributed to the weaknesses of the Council, and prevented its evolution into the major Commonwealth food authority; it is primarily a discussion group which must rely on the individual states for action, and the interests of the states often conflict; its machinery does not permit of any effective national plan for food production.

The Growth of a Coördinated Food Administration. Steps in the development of effective food administration within the government paralleled the changing character of the war. The year 1942 brought the global war closer to Australia, and thus intensified the problems of food supply. In March, a Defense Food Controller was appointed (within the Ministry of Supply and Shipping), who had the responsibility of organizing and controlling all food supplies for the Australian armed forces as well as food for civilians and for export. Radical changes in the character of food production, such as the extensive growing of vegetables for canning and dehydrating, were planned to meet the requirements of the Australian armed forces and later for the American forces stationed in Australia. Additional

factors complicating the food production problem were the growing manpower shortage due to voluntary or compulsory enlistments in the services or the expansion of essential industries, the scarcity of fertilizers, and the over-burdened transport system.

At the end of April, 1942, the Australian Food Council[1] was set up to secure maximum production and plan the allocation of available food supplies. The activities of the existing defense foodstuffs organizations were to be coördinated with those of all other agencies dealing with the production, distribution, and export of food. The Australian Food Council was primarily a policy-making body subject to Cabinet control; administration remained largely the task of the separate departments represented in its membership. Some of the jobs undertaken by the Food Council were at first directed toward the better distribution of food supplies, such as the movement of cattle from northwestern Australia to the southwest part of the state and to Queensland. Later in 1942, production goals for all the principal foodstuffs were formulated by the Council. These goals, stated in terms of the output of each product, made possible the equating of the needs for manpower and agricultural machinery of each sector of agricultural production. State goals were in turn set up, and these were allocated to the districts of each state. Actual implementation of production targets became the responsibility of the district war agricultural committees, organized by the state departments of agriculture; these authorities knew the local conditions and could administer plans for the pooling and allocation of labor, farm machinery, and fertilizer. At this same time, a federal Director of Agriculture was appointed to push the campaign for increased production. Thus an administrative organization evolved on the production end with the federal director at the top and the district committees at the bottom.

Present Food Organization—the Food Executive. A further coördination and consolidation of all the agencies, however, was important for the successful fulfillment of the expanded food program. For example, the provision of manpower for the farms depends on the constant consultation of a chief food authority with other agencies competing for available workers—the Allied Works Council,[2] the essential industries, and the services.

[1] The Australian Food Council membership includes: chairman, W. J. Scully, minister of the Department of Commerce (which was correctly renamed Department of Commerce and Agriculture at the end of 1942); representative of the United States forces; representatives of the following Australian departments: Army, Navy, and Air, Department of War Organization of Industry (the Australian counterpart of the War Production Board), Department of Health, Manpower Directorate (similar in function to the War Manpower Commission), Rationing and Price Commissions, Council for Scientific and Industrial Research, and other representatives of the Department of Commerce and Agriculture.

[2] The Australian agency constructing military projects such as airports and roads for the Allied forces in Australia.

This food authority must know the character of the whole food program and have the power to carry through that program. To that end, in May, 1943, a Food Executive was established as a compact cabinet group. A comparable coördinating authority already existed in the Australian administrative structure—in the Production Executive of the Cabinet, which initiates consistent policies to insure maximum economic mobilization for war and civilian needs.

The Food Executive carries on all activities relating to the production, procurement, manufacturing, and distribution of foodstuffs. Its responsibilities cover supplies for the Australian services and civilian population, for the Allied forces in the Southwest Pacific area, and overseas requirements for Great Britain. The chief executive officer is the Controller-General of Food (or, as generally referred to, the Commonwealth Food Controller), Mr. J. F. Murphy, who is also secretary of the Department of Commerce and Agriculture. Several advisory food committees function under the Executive: the Defense Advisory Foodstuffs Committee, which advises on food problems common to the Australian services; the Specifications Committee, which initiates specifications for foodstuffs; and the Food Purchasing Board, which arranges contracts for food for the armed services. The British Food Mission's representatives and the American agricultural and processing experts in Australia advise and consult with the Executive.

Although not specifically identified, two main functional units emerge within the food control organization (see chart on page 714), units which correspond to the two aspects of the food problem—production and distribution. Production is the concern of the Director-General of Agriculture, who, with the assistance of a Director of Agricultural Organization, utilizes the district committees for the carrying through of agricultural production proposals. Distribution is the responsibility of a Deputy Food Controller, who is in charge of procurement, processing, and distribution; he is aided by the defense foodstuffs organizations in the states. The Emergency Supplies agencies, which operate through wholesalers and retailers in all the states, have been incorporated into the new food control organization. For over two years these agencies have stored certain selected foodstuffs to support the population for three months in the event of an emergency.

The Department of Commerce and Agriculture has been somewhat streamlined, and through its representation on the Food Executive its activities are being consolidated with the over-all food program. The many separate marketing agencies which still carry on the acquisition and disposal of the particular commodities under their jurisdiction are likewise coördinated in this set-up, since their membership frequently includes officials from the Department of Commerce and Agriculture or from the Food Executive or its auxiliary committees and boards.

FOOD CONTROL ORGANIZATION IN AUSTRALIA

CABINET

FOOD EXECUTIVE

W. J. Scully
J. B. Chifley
J. J. Dedman
F. W. Bulcock

Australian Food Council

Australian Agricultural Council

Defense Advisory Foodstuffs Committee

Food Purchasing Board

Specifications Committee

Commonwealth Food Controller
J. F. Murphy

Agricultural Production Section
Dept. of Commerce and Agriculture
Dir.-Gen. of Agric.
F. W. Bulcock

Marketing Branch
Dept. of Commerce and Agriculture
E. McCarthy

Procurement, Processing, Distribution Section
Deputy Food-Controller
Claude Massey

Vegetable Seeds Committee

Director of Agricultural Organization
A. R. Callaghan

State Departments of Agriculture

District War-time Agricultural Committees

Farmers

Director of Food Manufacture
G. Arnott

Food Manufacturers

State Food Councils
Defence Foodstuffs

Food Distribution to Civilians
Commonwealth Controller of Emergency Supplies
C. E. Critchley

Civilian Emergency Supplies Organizations

Wholesalers

In addition, there are several voluntary advisory agencies such as the Potato Advisory Committee, the Citrus Advisory Council, and the Council for the Australian Pig Industry, which advise the Department of Commerce and Agriculture about the problems of their respective industries. Although there is not a very definite demarcation between the duties of the Marketing Branch of the Department of Commerce and Agriculture and some of the other agencies devoted to marketing problems, the function of the secretary administering the Marketing Branch would appear to be largely residual and supervisory.

The Australian Agricultural Council still functions as an advisory clearing house for the discussion of policies and the making of recommendations to the Commonwealth government and to the state departments of agriculture. The technical and research services of the state agricultural laboratories are at the disposal of the Commonwealth authorities. Thus a centralized and unified governmental structure to plan the production and distribution of food has evolved. This new food control organization has complete authority to fix production quotas, require farmers to grow desired foodstuffs, or discontinue the production of unnecessary crops. Production and use of fertilizers and feedstuffs, and food processing, storage, and distribution are also under its jurisdiction. In exercising its functions, close coöperation is maintained with United States Army food experts, with the Food Committee in London and the Combined Food Board in Washington, and also with Australian shipping and land transport authorities to insure efficient and adequate transport for the food supply.

The method of formulating food goals is a process in which all the authorities in the food production program participate, and before these targets are finally promulgated, they are studied on the Cabinet level. Procedure is not formalized in statute or regulation, but it may be outlined roughly as follows: the Food Executive prepares the goals based on the information of requirements and capacity submitted to it by the Australian Food Council, the Food Controller, and the Director of Agriculture. These goals are considered by the Production Executive of the Cabinet in order to relate the food program to all the economic aspects of the war. The membership of the Production Executive[3] indicates that the major government ministers concerned are consulted, and others are coopted when necessary.

[3] The Production Executive consists of the ministers holding the following portfolios: Treasurer and Minister for Post-War Reconstruction, Minister for Supply and Shipping, Minister for Munitions, Minister for Trade and Customs, Minister for Labour and National Service, Minister for Commerce and Agriculture, Minister for War Organization of Industry, Minister for Transport, and Minister for Aircraft Production.

Not all the weaknesses in administration have been solved. Duplication of functions and personnel still exists. Full coöperation among government departments remains an ideal to be attained. Representation on boards and councils concerned with foodstuffs (except for the Commonwealth Prices Commission) ignores the consumer.

Problems of Food Production. Although this survey is concerned primarily with administration, not all the major problems of the Australian food front can be solved simply by administrative changes, notwithstanding the criticisms and suggestions of the Opposition parties, the United Australian party and the Country party, in Parliament, in the press, and in the electoral campaign of 1943. The available supplies of manpower, fertilizers, and farm machinery, and the prevailing weather conditions, are the very serious factors which determine Australia's success in fulfilling her food commitments to her own people, civilians and those in the services, and to her Allies.

With only three agricultural workers left to do the work formerly done by five, the provision of manpower to raise food is one of the government's major tasks. Service men under 19 years of age, war prisoners, and the women's land army are helping to carry on the farm work. Labor is pooled among neighboring farm groups; the local agricultural committees have developed plans for more effective utilization of the rural manpower available in their communities. The government is exempting from call-up all permanent farm workers and all regular seasonal farm laborers. The withdrawal of some marginal wheat lands from production has released farmers for the growing of vegetables and the production of meats and dairy products.

Fertilizers—superphosphates or nitrogen—are required in large quantities in Australia, and because they must be shipped from overseas sources, are in short supply. Efforts are being made to increase the importations, but because of shipping difficulties and shortages elsewhere, the limited amount available must be diverted to priority crops such as vegetables for canning. There may soon be available a supply of synthetic fertilizers derived from the fixation of free nitrogen in the atmosphere.

The regulation of May, 1943, by which the federal government assumed control of the manufacture and distribution of all agricultural machinery will insure a better allocation of machinery to the most essential sectors of agricultural production. New types of agricultural machines, chiefly those for the quantity production of vegetables, are being secured from the United States, and some Australian agricultural implement factories which had been converted to munitions production are being reconverted to producing certain types of farm machinery. American-made machines such as vegetable cultivators provide models for local manu-

facture. A federally-owned farm machinery pool was established in 1943 and the local committee has control of the allocation of machinery to growers.

Changes in Food Production and Consumption. Although some reports of food shortages in Australia have been untrue or exaggerated, Australian civilian food consumption has changed as a result of the dietary needs of Allied troops. Australians are consuming more mutton and lamb and much less beef, pork, and bacon than formerly. Heavy demands for certain foods by the services, such as for 25 per cent of the orange crop and for the entire grapefruit output, also caused civilian shortages. Only tea, sugar, meat, and butter are rationed, but other regulations control the civilian distribution of certain foods. Only four ounces of coffee may be purchased at any one time. Retail sales of fresh table cream are completely banned. Indirect rationing of meat existed for some time through restrictions on the amounts allotted to butchers or through limitations on the number of days per week when meat may be sold. Beginning in January, 1944, meat was rationed in order to meet the requirements of the Allied and Australian forces and of civilians in Britain and to distribute supplies more equitably in Australia.

Within the past year, much progress has been made in the development of food-processing facilities in Australia. Meat is being canned to conserve refrigerated shipping space. Vegetable canning has greatly expanded, resulting in the production per week of one million cans of Australian home-grown vegetables. Because of this tremendous increase in vegetable growing, an intensive campaign is now under way to produce some varieties of vegetable seeds at home to replace those formerly imported. A Vegetable Seeds Committee, with the Director of Agriculture as chairman, determines the quantity of seeds needed. Vegetable seeds imported from the United States, "lend-lease" canning and dehydration machinery, and the supervision of American food experts have aided each step of the vegetable production process. Dehydration of fruits and vegetables is proceeding rapidly, with thirteen plants working in October, 1943, and others scheduled to begin operations soon. Six meat dehydration plants are in operation, and others are under construction.

One of the most interesting food developments of the war is the growing of new crops to supply food to the native populations of Ceylon and Fiji, the New Hebrides, New Caledonia, and the other islands of the Southwest Pacific. A new area at Wakoolen, on the Murray river in New South Wales, and the Murrumbidgee Irrigation region promise to produce rice from 30,000 acres this year. All of the rice produced or imported into Australia is reserved for the fighting forces and for the Southwest Pacific peoples whose previous food supply from Burma and Java has been cut off

by the Japanese. The people of Ceylon have developed new food tastes to replace rice; they are eating wheat and barley from Australian farms.

Price Control Devices. In order to maintain and stimulate rural production, and to control the rise in the cost of living, the Australian government has guaranteed minimum prices for some commodities and granted subsidies to several important primary industries. Through special boards or through the Prices Commissioner, the Government has guaranteed minimum prices for wool, wheat, hides and skins, potatoes, sugar, flax, and peas. In coöperation with certain states, there are also minimum prices for eggs, milk, and onions. Contract prices fixed for supplies of vegetables and fruits bought for the services has virtually set a lower limit to prices of many fruits and vegetables. However, when the open market prices for vegetables became higher than the contract prices, the government resorted to fixing maximum prices for some fruits and vegetables in the open market as well. Recent subsidies to the dairying and potato industries aim to enable producers to secure labor and to increase production.

Conclusion. The food front in Australia will not be completely won when the victory of the United Nations is assured. In food relief for the peoples of Europe and Asia, Australia will have a significant part. On the domestic front, readjustments of the rural economy will have to be made. The pattern of administration achieved during the war will assist in this twofold task, but only if the wartime powers of the Commonwealth government to deal with agriculture and food distribution are continued. Proposals of postwar reconstruction in Australia are based on a recognition of the need for a national plan, and the creation and execution of that national plan depend on the granting by constitutional amendment of greater powers to the Commonwealth government. Such powers would make possible the achievement of expanded output where necessary, the guarantee of economic security to workers on the land, the storage and disposal of surplus products, and a better standard of living for the people of Australia.

INTERNATIONAL AFFAIRS

CONSTITUTIONAL DEVELOPMENT OF THE I.L.O. AS AFFECTED BY THE RECENT INTERNATIONAL LABOR CONFERENCE

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Background of Conference Action. Forty-one countries were represented at the twenty-sixth session of the International Labor Conference, held in Philadelphia April 20–May 12, to consider the future rôle of the International Labor Organization and the economic and social policies to be recommended to the governments of member states.[2] This was the first regular session of the Conference to be held since 1938, the New York-Washington session in 1941 having been a special one.[3] As in 1941, there were no delegations from Bulgaria, Finland, Hungary, Rumania, Spain, and the U.S.S.R. Costa Rica, Ethiopia, Haiti, Iraq, Liberia, Switzerland, and Turkey, which were not represented at the 1941 sesseion, were represented by government delegates and advisers, as well as Sweden, which sent a full delegation. The occupied countries of Belgium, Czechoslovakia, France, Greece, the Netherlands, Norway, Poland, and Yugoslavia were represented by complete delegations; also Luxemburg by two government delegates and an adviser.[4]

As compared with the 1941 sesssion, the twenty-sixth was held at a time more propitious to the cause of the United Nations, was better attended both as to countries represented and the number of delegates and advisers present, and was more deeply occupied with specific proposals concerning the future status of the I.L.O. and post-war economic and social problems. The reasons for this were to be found in the events of the two and a half years separating the two sessions. The war had passed

[1] On leave for government service.

[2] Among the countries represented by delegations was Costa Rica, which was readmitted to the International Labor Organization by action of the Conference. See *Provisional Record* of the Conference No. 2 (communication to the Conference on the subject) and No. 4, p. 14 (report of the Selection Committee), p. 15 (admission of Costa Rica). In addition, Iceland, Nicaragua, and Paraguay sent observers. The Danish minister attended in a personal capacity.

[3] For a brief account of the 1941 session, see Smith Simpson, "The International Labor Conference, 1941," in this REVIEW, Vol. 36, pp. 102–104 (Feb., 1942).

[4] Thailand, represented by an observer at the 1941 session, was unrepresented at the twenty-sixth session. Unsettled conditions led to the contesting of the credentials of workers' delegates from the Argentine Republic, Greece, India, and Yugoslavia. In addition, objection was taken by the United South Slav Committee to the delegates appointed by the Yugoslav Government. *Provisional Record*, No. 10, Appendix.

from a stage of desperate defense to hopeful offense; increasing international consideration had been given to preparations for the post-war period; and the agenda of the Conference itself had been shaped to an appraisal of future policies and constitutional development.[5]

Foremost among the questions confronting the twenty-sixth session, and of particular interest to political scientists, was the future constitutional development of the I.L.O. in the whole complex of international institutions. Should the Organization be autonomous or closely related to a general organization, such as that foreshadowed in the Moscow Declaration? If closely related, how closely? Should its scope be expanded? If so, along what lines and to what extent? What action should be taken to increase its effectiveness?

Conference Action. Necessarily, in view of the fluid state of negotiations on the subject of a general organization, certain of these questions could receive no categorical answers. In general, however, it was agreed that the "enormous problems confronting us call for coördination and not for fragmentation in the international field."[6] Accordingly, a Declaration was adopted, restating the aims and purposes of the I.L.O. as originally set forth in the preamble of the Organization's constitution,[7] and affirming its obligation "to examine and consider all international economic and financial policies and measures" in the light of their contribution to the "conditions of freedom and dignity, of economic security and equal opportunity."[8]

[5] The Allied invasion of the northern coasts of France nearly a month after the disbanding of the Conference gave added relevance to the recommendations of the Conference as to post-war policies.

[6] *Provisional Record*, No. 8, p. 75:1 (Hambro).

[7] The constitution of the I.L.O. formed Part XIII of the Treaty of Versailles of June 28, 1919 (Arts. 387–427), Part XIII of the Treaty of St. Germain of September 10, 1919 (Arts. 332–372), Part XII of the Treaty of Neuilly of November 27, 1919 (Arts. 249–289), and Part XIII of the Treaty of Trianon of June 4, 1920 (Arts. 315–355). These treaties were made with the various states which were at war with the Allied Powers, 1914–18; different states were parties to them; the articles were numbered differently in them; and 28 states became members of the I.L.O. which were never parties to them. For these reasons, it became convenient to refer to these treaty provisions establishing the I.L.O. as "the constitution" of the I.L.O. and to adopt a uniform numbering of the articles running from 1 to 41. See Minutes of the Sixty-ninth session of the Governing Body, Appendix XVII, p. 165; and E. J. Phelan, "The United States and the International Labor Organization," *Political Science Quarterly*, Vol. 50, at pp. 107–112 (Mar., 1935).

[8] *Provisional Record, op. cit.*, No. 16, pp. ii–iv (text); No. 22, p. 185 (adopted). This language, "examine and consider," superseded the word "scrutinize" proposed by the Office, which evoked considerable discussion in the Conference. See *Future Policy, Programme, and Status of the International Labour Organisation, Report I, International Labour Conference, Twenty-sixth Session* (Montreal, International Labour Office, 1944), pp. 7–10, and *Provisional Record*, Nos. 5–10.

As this responsibility involves relationships with other international organizations, it was provided in a resolution on the constitution and constitutional practices of the Organization that the Governing Body should "take appropriate steps to assure close collaboration with and a full exchange of information between the I.L.O. and any other public international organizations which now exist or may be established for the promotion of economic and social well-being." Such steps, it was suggested, might include: "(a) the exchange of information, views, reports, studies and other documents regarding policies and measures of mutual interest and concern at appropriate stages in their formulation and execution; (b) the exchange of representatives without votes, at meetings convened by this Organization and such other organizations; and (c) the creation and maintenance of such joint committees as may facilitate their effective coöperation."

Further action in respect to matters affecting the regional and industrial development of the Organization was envisaged by the Conference. With "due regard to the Constitution and principles of the Organization, and its competence," the Governing Body was requested to "take effective steps as promptly as possible" to deal with "problems common to a region or to a particular industry" and to report to the next general session of the Conference on "the steps taken and plans for the further regionalization of the Office and of the Organization and for special consideration of the problems of particular industries."[9] Acting on an earlier proposal by the British Government that the Organization establish industrial committees for the principal world industries, the Conference gave special attention to the possibilities of such committees.[10] An exchange of views on this matter took place in a subcommittee of the Conference, and a report was adopted expressing interest in early action upon it "with a view to defining a policy for the constitution of industrial committees and for translating that policy into action."[11] A resolution, proposed by the countries of the Near and Middle East, was adopted, inviting the Governing Body to examine the possibilities of convening at an early date a regional

[9] Art. 2 of resolution concerning the constitution and constitutional practice of the International Labor Organization and its relationship with other international bodies. *Idem.*, No. 21, pp. ii–iii (text of resolution); No. 35, p. 254 (resolution adopted).

[10] The proposal of the British Government had been made at the ninety-first session of the Governing Body. For a discussion of the proposal by the International Labor Office, see *Report I, op. cit.*, pp. 71–77. For an earlier discussion of the idea, see *The I.L.O. and Reconstruction; Report by the Acting Director of the International Labour Office to the Conference of the International Labour Organisation, New York, 1941* (Montreal, International Labour Office, 1941), pp. 105–108.

[11] *Provisional Record*, No. 21, p. iv (text of the report); No. 35, p. 255 (report adopted).

conference of the countries of the Near and Middle East to consider the specific problems of that region.[12]

In a separate resolution, the Conference reaffirmed the international character of the responsibilities of the Director and staff of the Office and the practice of requiring them, upon appointment, to make "a solemn declaration" not to seek or receive any instructions from any authority external to the Organization relative to these responsibilities. The same resolution referred to "the duty of the Members of the Organization to respect fully the international character of the Director and his staff of the International Labour Office and not to seek to influence any of their nationals in the discharge of such responsibilities."[13]

The resolution on the subject of the constitutional practice of the I.L.O., to which reference has already been made, developed from a draft submitted to the Conference by the Office as a basis of discussion. The Office draft was a comprehensive document of nineteen paragraphs dealing with some thirteen subjects, drafted "with a view to consolidating and developing existing practice so as to lay a more secure foundation for the developments contemplated" in the near future.[14] The general subjects with which it dealt included membership in the Organization, financial contributions by member states, the Governing Body's constitution and powers, reports and information, committees, technical and special conferences, regional organization, relationships with other international organizations, complaints concerning the non-observance of international labor conventions, technical and other assistance to governments by the International Labor Office, representation at the International Labor Conference, freedom of speech of members of the Governing Body and delegates to the Conference while engaged in their official duties as such, and the international character of the International Labor Office.[15]

[12] *Idem.*, No. 21, pp. iii–iv (text of resolution); No. 35, pp. 254–255 (resolution adopted).

[13] *Idem*, No. 21, p. iii (text of resolution); No. 35, p. 254 (resolution adopted).

[14] *Report I*, *op. cit.*, p. 113.

[15] This resolution therefore dealt with many of the constitutional and operating practices of the I.L.O., current before the war and practices and policies developed during the war. Its provisions concerned not only the internal structure and procedures of the I.L.O. but also its scope and functions and its relations to other international organizations. It did not deal with such matters as the interpretation and revision of international labor conventions and the possible review of the Organization's budget by the Conference. An interesting feature of the proposed resolution, also, was the relatively high degree of attention which it gave to the powers and responsibilities of the Governing Body and Director as compared to the attention which it gave to the Conference.

Among constitutional problems which the Office draft raised was the question whether some of the practices and policies of the Organization developed during the war and included in the proposed resolution were in accordance with the I.L.O.

An attitude of caution was taken toward so comprehensive a proposal by a number of governments and employer delegates. In so far as governments were concerned, this appeared to arise from several causes. Governments-in-exile had had no opportunity of "consulting public opinion in their own country" on such important matters as those covered in the proposed resolution.[16] Governments had not been given an opportunity to submit their views to the Office before the final draft of the Office's proposals were laid before the Conference, in accordance with the usual procedure, and many governments had not received the Office Report in time to give it thorough consideration before the departure of their delegates for the Conference.[17] It was felt, also, that certain of the provisions of the proposed Resolution exceeded "a simple effort to define and consolidate the sphere of influence of the I.L.O."[18] Furthermore, this proposed resolution, together with the other proposals under Items I and II, was "regarded as political, in the sense that they impinge on national policies which have not yet been defined."[19] The League of Nations issue was an additional cause of caution, the feeling being expressed that this was not a time to disturb the complex relationships of the only existing general international organization.[20] The result was that only those general con-

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constitution. Those susceptible to the construction of being inconsistent with the constitution presented the additional question of whether departures from the constitution should not form the substance of constitutional amendments. The preamble of the proposed resolution stated it to be "desirable to assign certain powers and duties to the International Labor Office in accordance with the provisions of paragraph 5 of Article 10 of the constitution of the Organization," and the resolution therefore raised the further constitutional question of the extent of the new powers and duties which might be conferred upon the Office by a simple resolution adopted in pursuance of this constitutional provision. The practical objection to proposing constitutional amendments at present is, of course, the time required for their ratification. Article 36 of the constitution requires ratification of amendments by "the States whose representatives compose the Council of the League of Nations and by three-fourths of the members." Not only are most of the countries members of the I.L.O. now preoccupied with the war, but the communications problem is also a deterrent to the seeking of constitutional amendments. It is possible, too, that proposals of amendments might retard certain of the I.L.O.'s preparations for the post-war period.

[16] *Provisional Record*, No. 7, p. 57 (van den Tempel). See, however, the remarks of Messrs. van Zeeland (Belgian Government), *idem*, pp. 61 ff.; Stancyk (Polish Government), 66 ff. esp. at p. 67; Soubbotitch (Yugoslav Government), 76 ff., esp. at 77.

[17] *Idem*, No. 7, p. 57 (van den Tempel); No. 8, p. 75 (Hambro). The Indian Government had not received the report before the departure of its delegates. See Minutes of the Committee on Items I and II, CI-II/PV4. p. 3.

[18] *Idem*, No. 7, p. 57 (van den Tempel).

[19] *Idem*, No. 10, p. 109 (Martin).

[20] *Idem*, No. 8, pp. 74 ff. (Hambro); No. 10, pp. 110–111 (Martin).

stitutional principles were adopted which seemed "useful to direct the work of the Organization at the present time."[21]

Although it was considered desirable by the Conference to avoid at this time any permanent changes in the relationships of the I.L.O. with the League of Nations, communication between the Office and members of the I.L.O. is a matter so vital to the efficient functioning of the Organization, and such difficulties have been experienced in the routing of communications through the Secretary-General of the League, that the Conference authorized the transmission of certain communications through the Director of the Office.[22] This was stated to be "supplementary to the normal procedure," and therefore preserves the functions of the Secretary-General of the League of Nations with respect to such communications.[23]

Further consideration of the above matters, as well as other constitutional matters on which the Conference took no action, was requested of the Governing Body. Particular consideration was invited to the relationship of the Organization to other international bodies; the further clarification and codification of the Organization's constitutional practice; the status, immunities, and other facilities to be accorded to the Organization by governments; and the methods of financing the Organization. As a means of such consideration, the Governing Body was requested to appoint a committee as well as representatives to negotiate with international authorities concerning constitutional questions which may require immediate action.[24]

Appraisal. As a result of its activities in developing international labor conventions and recommendations, regional and industrial conferences,

[21] Remarks of Mr. Claxton (Canadian Government delegate) in the Committee on Items I and II. CI-II/PV4, p. 1.

[22] For a statement of the problem, see *Report I, op. cit.*, p. 131. The action of the Conference was in the form of an article in the Resolution Concerning the Constitutional Practice, etc.

[23] In this way constitutional issues were avoided. The communications concerned are described as follows in the resolution:

"(a) the communication to Members of certified copies of Recommendations and Conventions in accordance with paragraph 4 of Article 19 of the Constitution of the Organisation; (b) the communication by Members of the information concerning the action taken in regard to Recommendations required by paragraph 6 of Article 19 of the Constitution; (c) the communication by Members of the formal ratifications of International Labour Conventions in accordance with paragraph 7 of Article 19 of the Constitution and the relevant provisions of the individual Conventions; (d) the communication to Members of all notifications required by the terms of International Labour Conventions."

[24] In accordance with this request, the Governing Body at its ninety-third session, immediately following the Conference, appointed nine of its members (three from each group) to undertake such negotiations and constituted this number, with nine additional members, as the committee to give consideration to the constitutional questions of the Organization.

and technical assistance to governments, the I.L.O. has developed a great many procedures and practices, many of which partake of a constitutional character. The desire of the Office to systematize and "codify" these is therefore understandable. Many of the constitutional issues presented in such a codification, however, are now under consideration by governments in connection with other proposed international organizations. These governments expressed the view at the twenty-sixth session of the Labor Conference that until certain policies are developed with respect to specialized organizations generally, the present time is unpropitious for a complete codification of the I.L.O.'s practices and procedures. However, the question of constitutional evolution was opened to discussion at the Conference, certain basic lines of that evolution were stated, provision was made for negotiations as to other lines, and further development will no doubt occur in the near future as other international organizations begin to assume a more definite shape.

RESEARCH IN POLITICAL THEORY: A SYMPOSIUM*

I. THE WORK OF THE POLITICAL THEORY PANEL

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The members of the American Political Science Association probably know that the Research Committee is divided into panels for the consideration in detail of special fields in political science. Not all of the panels have been organized, but for some time the political theory group has been at work, attempting the formulation of its particular research needs. During November, 1943, part of the panel was able to meet in Washington. The work of the panel leading to this meeting was based entirely on correspondence, and, owing to the pressure of war work, a number of persons who otherwise would have been interested were unable to take part in the preparatory tasks. The minutes of the November meeting have been distributed to the panel. But it was thought by the sponsor of the meeting (the Committee on Government of the Social Science Research Council, under the chairmanship of Professor William Anderson) that a report should be made to the Association; and it is presented herewith. Such a report should indicate, if possible, the major trends in the thought of the Political Theory Panel and the research needs which these students of political theory have emphasized.

Among members of the panel there are broad differences, as one would expect, but there are also agreements on essential principles. Since political theory is in part a philosophical consideration of the field of politics, these differences and agreements are, we think, more explicit than in other areas of our discipline. It is, indeed, one of the duties of the political theorist to point out and analyze the principles upon which further discussion is organized. Teaching and investigation in political theory must and does concern itself with metaphysical principles embedded in the work of those who study primarily political institutions and processes. In any case, a political theorist is such in measure because of his insistence on the central character of principles in the study of political science.

But granting that the study of principles commonly used throughout political science is the primary teaching and research field of the theorist, we must recognize the deep cleavage among theorists in the area of primary ideas. Such differences concern the arguments that have gone on for centuries among the philosophically literate. But each generation of social thinkers must come to these questions with insights freshened by continu-

* Planned and arranged by Francis G. Wilson, University of Illinois.

ous historical and research experience. The discussions within the Political Theory Panel make all this abundantly clear, but the panel would like also for all political scientists to share its concern.

The ultimate issue may be stated in several ways. It may be that one's work in political science proceeds from the metaphysical principles accepted by the investigator as to the nature of man and society, and of the relation of man and society to the universal order, or to God. One group of theorists contends that the great political thinkers have dealt clearly with these issues, while another group would say that metaphysics is little more than a name given to logical thought. Thus some would urge that the essential philosophical position of the student must determine in the end both the kind of investigations undertaken and the character of the results. Not only must the individual study his own framework of thought, but considerable research may be done in showing how conclusions or institutions are correlated with the metaphysical starting point. Those who favor more metaphysical concern in the social sciences would argue that much of the thinness of social science arises from the attempt to by-pass the philosophical issues latent in the examination of social questions. In other words, much of the so-called detachment of social scientists is a product of philosophical ineptitude.

Another facet of this problem is the clash between those who would favor broadly a "theological" approach to politics and those who would accept the now traditional "positivistic," scientific, or liberal technique of social study. One group of theorists would say that a political theorist must be a reasonably good theologian, not only because so much of the history of social discussion has been written in the theological framework, but also because the theological approach clarifies fundamental issues of the nature of man, society, and the universal order. These members offered varying ideas as to what constituted an essentially theological approach to political theory. Their general view was variously challenged by others who held to the traditional approaches of idealist and rationalist liberalism.

However, neither the theological nor the empirical theorist will deny the importance of the study of ethics, values, or principles in politics. Indeed, one of the major tasks of the theorist is to study political ethics, that is, to formulate and criticize values and principles. It is one thing to say that ethics and principles exist, and it is another to say that valid principles or a valid system of ethics can be attained. It appears that most of the panel will agree that valid social and political principles may be attained. Thus the panel for the most part would agree that we can get beyond affective motives in thought to the validity of thought. This proposition is obviously central in the method and purposes of the study of political theory. It is a criticism of that scientific method which rests content after the operations of thought have been described, or which at-

tempts to invalidate an argument by showing that the proponents of an idea are either opportunistic or neurotic. Such a statement is not a criticism of clinical work in the field of politics; it is an assertion that there is more in politics than simply clinical observation.

Some theorists have stressed, in our deliberation, the place of value-free discussions in political science. There was no disposition to deny that value-free inquiry may take place, and one member insisted, for instance, that when one discusses the conditions necessary for the existence of society, i.e., Aristotle's emphasis on political stability, values are not involved. Such conditions for the existence of society are precedent to the realization of any values that may be attained in society. Here is certainly a principle to guide research, but agreement that any particular discussion is "value-free" is not likely to be reached. Much of the same type of argument concerns the issue of recurrence in historical behavior. What does one get when it is shown that in human behavior certain actions tend to recur? It hardly needs to be pointed out that much of the Italian tradition in the study of politics from Machiavelli to the present day operates on the principle of value-free interpretations.

Some contended that the issue in research and teaching discussed by the panel could be described as a choice between the Middle Ages and the nineteenth century. Others challenged both the suggestion that political theorists are limited to that sort of choice and the assertion that there is so sharp a contrast between medieval and nineteenth-century approaches to political theory. Thus, more specifically, if we argue that there is a moral order in the universe, i.e., natural law, and that out of this order the natural rights of individuals emerge, we cannot but regard the nineteenth century as the rejection of the foundation of legitimate government. The democratic tradition, for example, is divided, in this view, between those who would argue that the minority must always bow before the omnipotent majority and those who would see democracy in the self-limitation of the majority and the guarantee of individual rights. The French Revolution, it is argued, has resulted in a perversion of the medieval and Anglo-American tradition of democracy. Such a discussion naturally bears on the type of research that political scientists may do on the history of democracy in the West, or on the problem of reconstructing intelligent political régimes in Europe after the war. We must ask: What is legitimate political democracy?

A further division of thought related to the fundamentals of political theory research concerning the "philosophy of history." Some theorists contend that we need in America a consciousness of the meaning of our history; we need an examination of the American philosophy of history. None of the panel would deny that the individual researcher must know the principles he uses for the interpretation of history, but a difference of

opinion exists as to whether it is proper to state it, for ethical purposes at least, in terms of a philosophy of history. The philosophy of history is thus balanced against an ends-means relationship. In the latter statement, it is argued that a philosophy of history has usually relied on factors outside of human choice, even to an exclusion of any significant human choice in the course of history. If there is to be meaningful political ethics or principles, it must involve choice and results flowing from that choice. In other words, the important factor in social history is not the objective factor but the selection of ends and the selection of means for realizing ends. To some of the panel, it has been clear that research in political thought has been governed to some extent by assumptions that relate either to the philosophy of history or to the choice of ends and means. Often they have been confused.

One way of summarizing the discussion of basic issues is to say that the political tradition of the West must be subjected to close scrutiny in political theory research. The present-day interpretations of democracy, for example, grow out of differences of opinion as to the traditional roots of democratic government. Significant work has been done in recent years which throws light on the continuities of history. While it is obvious that students of political theory will applaud such work, they will likewise insist that more must be done. Whether the post-war reconstruction of Europe is involved, or the relation of Western society to the East, understanding must be based on the intellectual and institutional tradition of these areas. Both a philosophy of history and the issue of ends and means run deep into the tradition of which the student is heir. Americans, of course, must consider and interpret the background of their own political life, but in the future the organization of the world may depend upon a well-understood traditional diversity and upon similarity in primary political values.

The Political Theory Panel agreed generally that there should be usable definitions of political terms. It was agreed that one of the functions of the theorist is to define the concepts of political science. The panel agreed that there is unfortunate confusion on the use of the common and necessary conceptions of the discipline. Some members of the panel thought that there might be, on the analogy of contemporary work in the field of law, a Restatement of Political Science. Others thought of the possibility of a Dictionary of Political Science, though some believed that such would not differ widely from the *Encyclopaedia of the Social Sciences*. The examination of this subject, however, led to the question of the relation of concepts and institutions. The development of modern constitutional theory, the structure of modern ideologies, and a large number of common American political conceptions might be studied in relation to institutions. What relationship is there between concepts, or interpretations of

concepts, and the political arrangements or institutions which have been set up? Likewise, concepts have varied in different philosophical systems, and there is a large field for investigation in the relations of systems of thought, political concepts, and specific institutions. Institutional arrangement in relation to values obviously is another version of the ends-means or philosophy of history problem. On the other hand, issues like fiscal policy and the money issue in American politics, to mention only one, should give political theorists ample opportunity to make a contribution to political science.

The use of concepts or ideas presents another issue which has perhaps as much to do with teaching as with research. Most of the panel would agree that we should study the ancients because they are really modern, because they have something to say to the present generation in the solution of its problems. Plato, Aristotle, Augustine, Cicero, and scores of others must be studied because they tell us something about ourselves, because they make us conscious of the content of our own minds. In other words, because of historical continuity, or because of the essential nature of moral man or the moral universe (or even Satanic man and the Satanic phase of the universe), we must regard the great political thinkers of the past as timeless—at least in part. To show wherein these thinkers are timeless, and wherein they are not, involves the metaphysics we adopt; but it also involves research in political theory for every generation. Modern scholarship continues its labors, and we can almost see a year-by-year change in the appreciation of the past.

Certain members of the panel, however, were careful to insist that there is danger in work of this character. We may take our modern concepts and re-interpret the past simply in terms of what we think today. We may, therefore, as in some works on the Middle Ages, get a fictitious continuity of concepts and theory. We must be sure we understand the relation between concepts and institutions at the time they were developed. It is especially true, according to some, that the study of medieval ideas has been falsified by projecting modern conceptions into the past; the state of medieval times has been discussed as if it were the state of the eighteenth and nineteenth centuries.

The considerations mentioned above suggest that we need today both an integrated vision of society and a more particular examination of the lesser movements in political thought. That the political theorist has a duty in this respect has been repeatedly stressed, and in particular the theorist should analyze other phases of political science for their contribution to the larger end of a comprehensive picture of value and principle in modern politics. Some would say that such an understanding of our times will not come from the method of the positivists; only a theology or a metaphysics of politics can supply it. Certain members of the panel be-

lieve that along with a much greater emphasis on religious thought there should be closer attention to the political utopia as a means of criticism and integration. The political thinker should even undertake the writing of utopias. But no theorist would say that the careful collection and organization of the facts of modern society can be eliminated. The issue arises over the place of such necessary labor in the total scheme of scholarly enterprise.

The integrated view must be related to a variety of views. Smaller or less significant movements in political thinking need, in the opinion of the panel, to be studied carefully. Many movements need monographic studies; the ideas of church groups, of labor organizations, the evolution of the ideas of long-established journals, and those who favor the agrarian or coöperative movements should be studied for their interpretation of political values and principles. In other words, there should be a frontal attack by political theorists and their graduate students on tracing the emergence of interpretations and values in American political society.

In a more specific vein, the Political Theory Panel has concerned itself with the lack of suitable texts of great thinkers, both for teaching and research. The teaching of political theory is dependent on suitable texts in the American and European fields, to say nothing of the problem presented by Oriental and Near Eastern political thought. There is already a committee of the American Political Science Association working on the publication of usable volumes from the writings of distinguished American political thinkers. The panel decided that a small committee should be appointed to draw up a list of the most needed texts from the European field. It is to be noted particularly that changing interpretations of history have brought to light what scholars of previous generations did not do. The older writers neglected by the eighteenth and nineteenth centuries will get their due, let us hope, from those who are students of political philosophy in the twentieth century. The changing but continuous character of social questions makes writers of the past rise and decline in their importance to contemporary life. For example, a number of the panel felt that texts from the ninth and sixteenth centuries were especially needed at the present time. It is hoped, in any case, that the Executive Council of the Association will take some suitable action on the report of the committee of the panel. There should no doubt be a committee of the Association to encourage the publication of European texts in the field of political thought.

After careful study in the Political Theory Panel, the committee[1]

[1] The Committee on European Texts is composed of Paul A. Palmer, Kenyon College; Father Wilfrid Parsons, Catholic University of America; Eric Voegelin, Louisiana State University; and J. Roland Pennock, Swarthmore College (chairman).

has brought together a report which indicates the more important and immediate tasks in the publication of European sources. A meeting of the committee was held in Washington at the time of the annual meeting of the Association in January, 1944. A report on the replies received to the committee's questionnaire was considered and actions were taken which may be summarized as follows: (1) The committee tentatively decided to confine its activities to works published before the middle of the nineteenth century. (2) The committee decided that among single treatises the most important for our purposes are: (a) a translation of Bodin, probably abridged; (b) a translation of Marsiglio in condensed or abridged form; (c) a popular edition of the Nugent translation of Montesquieu. (3) The committee also looked with favor upon the proposal to reprint Sidney's *Discourses* and Harrington's *Oceana*, but it felt these to be of distinctly secondary importance as compared to the editions previously mentioned. (4) Under the general heading of "Selections," the committee favored publication of the following: (a) a volume of selections from Bentham's works; (b) selections from medieval political theorists; (c) selections from Occam, Wyclif, Luther, Calvin, and others, appropriate to a volume on the Reformation; (d) a similar volume on the Counter-Reformation; (e) possibly a volume on the theory of absolute monarchy in the sixteenth and seventeenth centuries; (f) selections from writings on the theory of toleration.[2]

As a result of the work of the committee, it is clear that there is marked interest in improving the available teaching materials in political theory, and there is also a notable concentration of interest upon a few basic publications such as a translation of Bodin, a popular edition of Montesquieu, a volume of selections from Bentham, and a volume of selections from medieval political theorists. It is to be hoped that the Association and the Research Committee will be able, at least after the war, to bring about the publication of these needed volumes.

Part of the work of the meeting of the Political Theory Panel was a short joint discussion with representatives of the Special Committee on Civil Liberty of the Committee on Government. This discussion emphasized the inadequacy of an approach limited to constitutional law; the problem of civil liberty runs back to the fundamentals of man and society. The defender of civil liberty must examine the principles on which the rights of an individual may be based, and he must defend an order in which it is valid that individuals have civil liberty. Thus civil liberty should be regarded as a special application of many of the problems so far discussed in this report. A number of specific subjects for research were,

[2] The committee discovered that two scholars have been working on material for a volume of readings in medieval political theory, and has been able to bring the two students together, one of them generously agreeing to assist the other.

however, brought before the panel and the representatives of the Special Committee on Civil Liberty. It was suggested that political theorists might examine the conditions of society and government under which men have civil liberty; that the history of the theory of civil liberty might be examined with profit; and that the Christian and other elements in civil rights should be studied, with some attention to the differences between Protestant and Catholic thought. In addition, examination should be made of the changing content of civil liberty, the relationship of property rights and other civil rights, the effect of industrialism on civil liberty, the supremacy of the civil over the military authorities, the effect of war on civil liberty, the civil rights of members of the armed forces, and the freedom of the press under conditions of press monopoly. These suggestions must be regarded, of course, as illustrative of the general problem, and not as an exhaustive statement of needed research in the relations of political theory and civil liberty.

II. RESEARCH IN AMERICAN POLITICAL THEORY

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It is not difficult to list a considerable number of subjects on which further research is needed. The simple fact is that almost none of the great subjects has been adequately dealt with, even for this generation, and the same can be said for most of the lesser ones. The difficulty lies not so much in an enumeration of worth-while subjects as in consideration of the methods of attack to be employed by the researcher, and even more in the problem (the difficulties of which can be no more than suggested in this article) of the equipment of the researcher.

Modern federalism is peculiarly the contribution of the United States. When Madison and Hamilton were defending the proposed constitution against its critics, one of the major arguments which they had to meet was the contention that the Fathers had created, not a federal system, but a national or consolidated one. So far as recorded history went, the argument of the Anti-Federalists was correct. And when Madison came, in the thirty-ninth *Federalist*, to analyze the nature of the proposed constitution, he freely admitted that the new system was not strictly federal within the traditional meaning of that term. Rather, it was a system partly national and partly federal. But from the point of view of later times it was a federal system, because the term "federal" has come to be attached to the distribution of powers between central government and states which was worked out by the Convention in the summer of 1787. Many other countries have taken this work as a model upon which to build, although

none has imitated it with complete fidelity to detail. We have, then, in this country the arch-type of modern federalism, and it might be reasonable to suppose that we should find here a considerable body of literature discussing the history and theory of such a system. There is, in fact, surprisingly little literature on the theory, or even the history, of American federalism, although a good many books and articles dealing with certain of the problems growing out of the federal distribution of powers have appeared. The subject cries for further analysis, and no single study will close off the field for those students who are interested in the theoretical problems of federal government.

Somewhat the same thing can be said about the separation of powers. True it is that the Founders acknowledged their indebtedness to Montesquieu, to Locke, to Blackstone, to Harrington, and to others who had written on this subject. But again it is apparent that the system worked out in this country bears but slight resemblance to that described by any of the preceding philosophers or jurists. There have been excellent discussions of several aspects of this general problem, e.g., the recent studies of presidential powers and the numerous writings on judicial review, but the general problem of the separation of powers is still lacking an interpreter. Nor is there any history of the theory of the separation of powers in America.

The principle of representative government was certainly not originated in 1787, nor first discussed in the *Federalist*. It is nevertheless true that there is room for a very considerable amount of further analysis of the assumptions underlying representative government as applied in this country and as debated in many constitutional conventions and in a variety of writings. The vastly increased complexity of modern government is a truism with which everyone agrees. It is not apparent that our theory of representation has been clearly analyzed with a view to the consideration of the relative functions of representatives and voters in modern society. It is ridiculous to suppose that Burke or John Stuart Mill said the last word on this subject, and it is unsound to assume that theories applicable to other countries are applicable here, at least without some modification.

The whole cluster of questions which gather about the problem of individualism offers many opportunities for further discussion, and not only such traditional topics as the relation of the individual to various political communities, or of the position of the individual in industrial society, but also the status and political relationships of the individual as a member of various non-political groups. The subject has, to be sure, been attacked in a piecemeal fashion by several scholars, but I should suppose that no one of them has thought that his own contribution was inclusive or, perhaps, even final within the limited range of his objectives. At the present day, the problem of minority rights, and particularly of the civil rights of

minorities, seems of particular importance. Several scholars are at work upon some aspect of this subject. Whether any will deal with the general over-all theoretical issues involved, I do not know.

Scholars dealing with American political thought have been inclined, like most of those about whom they were writing, to steer away from many of the relatively abstract subjects. It is easy to understand why this has been the case; the nature of their materials has inclined them away from the major terms. I venture to suggest that we have made a mistake in avoiding such conceptions as justice and such great problems as the principles of political obligation. Even though the more significant American writings rarely do more than mention them, if they do that, there are assumptions in those writings which need further analysis, and those assumptions should be discussed in terms of the classical concepts of political thought. There are great possibilities for seholars who have the patience and the capacity to probe into the vast area of the implicit in American political thought. Such discussions would, I believe, serve to throw a great deal of light upon the nature of American political thought. We have had too little basic analysis.

There are opportunities for further study dealing with the influence, or lack of influence, of various English and continental movements of thought in the United States. This has recently been illustrated by articles on Benthamism,[1] and on German idealism.[2] These were, of course, major movements in England and Germany; in this country their influence was relatively slight, and the very slightness of that impact is itself a fact which helps to illuminate the nature and development of American thought. There have been many studies of socialism in America, and especially of Marxist socialism, but all, or nearly all, of them, at least so far as my observation goes, have dealt with the economic aspects of such movements. To be sure, the impact of socialism has been greater upon economic than upon political thought in this country, but again there is an opportunity for a consideration of the non-influence of Marxism upon American political thinking.

And if there is opportunity for a variety of studies dealing with the impact of European thought in America, there is at least as great an opportunity for studies of comparisons or contrasts between European and American developments. There are undoubtedly many areas in which the native doctrinal developments have been both vigorous and important, and where the possibility of comparative study of political ideas has been largely neglected. It has been a serious mistake to write about American

[1] Paul A. Palmer, "Benthamism in England and America," in this REVIEW, Vol. 25, pp. 855–871 (Oct., 1941).

[2] Thomas I. Cook and Arnaud B. Levelle, "German Idealism and American Theories of the Democratic Community," *Journal of Politics*, Vol. 5, pp. 213–236 (Aug., 1943).

political thought as though, after the Revolution or the adoption of the Constitution, it had a being which was not only independent of, but not even comparable with, the various developments of political theory in the remainder of the Western World. There may be similar opportunities for a study of comparative political ideas based upon the writings of the Orient, but of this possibility I cannot speak with any authority.

A committee of the American Political Science Association has been working on a plan with the University of North Carolina Press, which originally proposed the scheme, for the publication of a Library of American Political Thought. The plan is that a series of volumes should be published to cover the major American political writings. Each volume would have a special editor, and each would ordinarily be devoted to a single writer. Since few of the major political thinkers in America have written books, it is now extremely difficult for the student and teacher, and particularly for those who do not have a large library close at hand, to consult most of the writings which are of primary importance for their subject. A collection of from fifteen to thirty volumes of this kind, each of substantial size, would go far toward making a large part of the raw material of American political thought readily available. It is unnecessary to emphasize either the importance or the difficulty of selecting from the writings of most of the political thinkers. It will be equally important for the editor of each volume to write an introduction which not only will give the setting of the theorist's work, but also analyze that writing and offer an estimate of its significance. It is to be hoped that the funds to finance this important project can soon be raised.

While I have high hopes for this project, I think that it should also be pointed out that, no matter how successful it may be, it will leave a great wealth of material unconsidered. There are many sources which cannot possibly be compressed within the covers of such volumes as these. Let me give two illustrations.

Many of those who have worked in the field of American political thought have had occasion to make some use of state constitutional convention debates. I think it unlikely that these rich mines will be worked out within the foreseeable future. On most of the major issues that were discussed during the nineteenth century, and for some which are being debated in the twentieth century, they furnish source materials which are as important as they are difficult to get at. But the difficulty of working such mines, and the sheer mass of low grade ore that must be sifted through in order to find the occasional pay dirt, can be no justification for failure to make use of them.

There are many movements which have scarcely been studied at all from the point of view of political theory. Everyone is familiar with at least the general outlines of the slavery arguments, although even this material has by no means been exhausted, but relatively few have done

much work in the many lesser reform movements of the same period, even though it must be evident by now that the effect of these humanitarian crusades was materially to alter the conception of democracy in the United States. There have been studies of the political ideas and agitations of labor groups in recent periods; there has been much less attention to the political thought of the labor organizations before the Civil War; and there are numerous other groups not so easily classified which have at least attempted to affect the course of political action and political thought in the United States.

I hope that I have been able to make it clear that, in my opinion at least, there are great opportunities, that the field is open to the talented. It seems to me that more needs to be said about the way in which these various research tasks are to be carried out. We still suffer from the blight of the descriptive textbook. Too many scholars have assumed that they had fulfilled their mission when they wrote summaries of the ideas expressed by the various political thinkers and then put these summaries together in a volume which sometimes resembles a football program containing "the names and numbers of all the players." It may be assumed that accurate summary and description has its place. We do need to know something about the players in the game. But such descriptive listing is at best scarcely more than a beginning. If the study of American political thought is to have the importance either for students or scholars, or for the entire course of political thinking, in America that it deserves, we certainly cannot stop with description or with the cosy task of compilation. The charge of thinness has sometimes been brought against writings on American political theory. It is not a charge lightly to be ignored.

It is a severe, but, I am afraid, a just criticism of the writings of political scientists dealing with this subject-matter that the most stimulating and, taking it all in all, the most valuable history of American thought was written by a professor of English. Parrington's book has many defects, but instead of resting content with pointing them out, we would be much better advised to take both his limitations and his merits into account in our own work. Where, for example, he had almost no understanding of the constitutional tradition and of the history of constitutional institutions in America, where he largely disregarded economic history, where he was frequently neglectful of the many currents which went to make up the climate of opinion in the various periods with which he was dealing, we can, it is to be hoped, improve upon his lack of thoroughness. If his treatment of John Adams is misleading, his discussion of the Federal Convention both inadequate and misleading, and his few pages on the *Federalist* almost a travesty, that is not a sufficient justification for relapsing into dullness. It remains true, in my judgment, that Parrington did give an over-all picture of the character of American political thought

which has vitality and meaning. He had a point of view, one that he frankly stated in his Foreword, and he viewed the entire course of American political and literary thought from that location. His point of view today may seem somewhat naïve, but it had the tremendous merit of being an attitude which was firmly grounded in the thinking of his period. He was a child of, and a vigorous spokesman for, the Progressive movement of the early part of this century. It does not need to be stressed that this movement has been one of the most influential in American thought since the establishment of the Republic. Had he written a purely descriptive (I am afraid this is what too many students mean by "objective") book, it would have been as quickly forgotten as have the many other histories of American literature which are frequently more accurate and invariably less important.

Perhaps I might be excused for taking one additonal illustration from the writings of a man who was not a political scientist. I should suppose that many would agree that America's greatest historian was Frederick J. Turner. Turner's interpretation of American history has profoundly influenced not only the thinking of historians, of political scientists, and of economists, but also the thinking of publicists and statesmen. It is, and always was, a partial and a one-sided interpretation. It is of less value today than it was a generation ago, but it still contains, and will continue to contain, elements of importance for any student of American life and thought. Had Turner been content to write monographs, or had he, like so many of his unimaginative followers, been satisfied to repeat the words of the wise men who came before him, he would have been a figure of the second magnitude. Being a man of imaginative power, as well as of great scholarly ability, he left an impression upon American thought which has been equalled by no other historical writer. I am not arguing that every student or teacher of political theory should instantaneously attempt to write essays in the manner of Turner, much less that they should proceed imitatively along the paths that he marked out. I do mean that he furnished an example of the possibilities for the interpretation of the past which few others have had the courage or the ability even to attempt to imitate.

I very much hope that what I have been saying will not seem to be a justification for the free and easy expression of prejudice, or that I am not suggesting that scholars concerned with American political thought are relieved of the necessity of hard and intensive research. Quite to the contrary, my criticism would be that we have usually published before we had done nearly enough hard work. There has, for one thing, been an insufficient utilization of the materials commonly thought of as belonging to other disciplines, particularly economic history, constitutional history, and sociology. I know of no general rules which seem to be applicable here except that I should think it a defensible proposition that almost any

subject in the general area with which I have dealt above needs to be considered in the light of materials drawn from several fields of study. We have all heard much about the breaking down of departmental lines. I wonder whether this cannot be done most fruitfully in terms of particular topics and research problems.

All subjects need to be considered in the light of their times. In the study of American political thought, the climate of opinion in which nearly any problem lives and has its being almost invariably includes the institutional background as well as the intellectual history. The fact that virtually all American political writings that have counted have proceeded out of controversy, that none of great stature has been a detached, systematic, philosophical study (Calhoun's *Disquisition* was both significant and systematic, but it was certainly not detached), makes it even more important that materials drawn from political, constitutional, and economic history be considered along with the ideas that are there being expressed.

A book which illustrates, in one fashion, the sort of writing that I have in mind is A. V. Dicey's *Law and Opinion in England During the Nineteenth Century*. That work, in large measure because of the breadth of its coverage, because it ignores ordinary professional boundaries, and because it deals with ideas in their setting, has a lasting value and a pertinence to the problems of a century with which it does not deal far in excess of most of the books written about current problems. Somewhat the same kind of treatment is found in two quite different articles published within recent years in this REVIEW. Professor F. W. Coker's "American Traditions Concerning Liberty and Property"[3] and Professor A. T. Mason's "The Conservative World of Mr. Justice Sutherland, 1883–1910,"[4] bring to bear upon a particular problem a very considerable variety of factual and theoretical data. The result is, in each case, far more enlightening than it would have been had the author merely summarized a particular book or document. I certainly do not mean to imply that there have been no other and not less worthy examples of a method characterized by breadth of research combined with a discriminating selection of relevant materials. But this paper is not offered as a bibliography. It is a statement of possibilities and needs in the field of American political thought, and the few citations here included are merely illustrative of the rich opportunities which the subject-matter affords.

What I have been saying has also been strongly influenced by my conviction that the greatest need in this country today is a statement of objectives in terms of ideas and ideals. We lack any clear conception of what we are fighting for, or what goals we should seek to attain, even in this country, after the war.

[3] In this REVIEW, Vol. 30, pp. 1–23 (Feb., 1936).
[4] *Ibid.*, Vol. 32, pp. 443–477 (June, 1938).

It may be assumed that scholars who are concerned with the study and teaching of political theory cannot themselves supply all of the needed answers. It does not follow that they are justified in dodging the attempt to aid in this all-important enterprise. The work of the student of political theory must, in part, be a work of selection and interpretation. I do not mean to argue that we should substitute prejudice for objectivity. Objectivity, properly used, is necessary to scholarship; abused, it leads to sterility. The scholar must attempt to discover all of the facts that are pertinent to his problem. He should never neglect materials or data which are not in line with his own inclinations. It does not follow that he should not begin his work with an hypothesis, much less that he should have no conclusions, or that he should not feel free, indeed obliged, to express them. We have been too inclined to hide timidly behind the excuse of objectivity.

Interpretations of the history of political thought and analysis of current winds of doctrine can alike make great contributions to the future course of American democracy. Here lie an opportunity and a challenge which we cannot shirk and yet fulfill our obligations as scholars. So long as research and teaching remain free, we need have no fears of the old bogeymen, propaganda and indoctrination. The only test of political truth in a free country is that stated by Mr. Justice Holmes in his great dissenting opinion in the Abrams case: "the power of the thought to get itself accepted in the competition of the market." A truly free market includes the study and the classroom. Scholars also are citizens, as are their students. It has been said that "to teach is to affirm." It would doubtless be unwise, probably even dangerous to the best interests of scholarship and of teaching, to apply the maxim literally and without qualification. It is just as harmful to the best interests of both of these to neglect the important truth which it contains.

III. CONCEPTS AND INSTITUTIONS AS FIELDS FOR RESEARCH

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Library of Congress

Research in political theory hitherto has been largely synonymous with searches for the origin, growth, and decline in ideas, principles, and doctrines. Sometimes such research has concerned itself with individual theories; sometimes with periods. Less frequently, it has explored the basic concepts which underlie all theory. Yet it is with these concepts in their various aspects that researchers in theory must inevitably come to grips if they are to obtain precision in their findings. For example, principles to

govern the relations between church and state, between business and government, between law and opinion, rest upon precise definitions of the concepts involved. The principles may indeed be found to be corollaries of such definitions. So also in the more elaborate analyses of democracy, or political processes, or the structure of the good society, or the several elements in an ideal constitution, concepts precisely used are basic.

It will be noted that the adjective used is "precise," rather than "correct." There is a reason for this. More frequently than not, it will be discovered that the creative political theorist has imparted new meanings and new insights to many, if not most, of the admittedly major concepts of political science—meanings and insights which are frequently derivatives of changes in political institutions observed for the first time by the theorist in question. Now concepts of this sort are and can be "correct" only in relation to a given situation in time and place; or, alternatively, in their relationship to the writer's own utopia. In this latter instance, given the writer's set of absolutes or premises, the concepts may indeed be spoken of at least as subjectively correct. For example, many of the absolute concepts in Catholic political theory are obviously of this subjective nature. This statement does not preclude the possibility of their being objectively correct also, although whether they are so or not must find its demonstration in the controversial fields of epistemology and metaphysics.

Unfortunately, most political theorists have thought of their explorations as searches for the correct concepts out of which could be erected absolute principles, dogmatically stated. Therein they have largely gone astray, for they have seldom been aware of the fact that most, and perhaps all, of the concepts they use have been, as has been suggested, derivatives of the institutions of their experience—and these institutions have been products of varied circumstances at a given time and place. Not to underrate the value of research in the origin and development of a particular political theory or principle, it may be suggested that similar research in the history of the several concepts which go to make up all theories and principles is at least equally important. Concepts such as "justice," "sovereignty," "democracy," are obvious candidates for such research, and many others will suggest themselves. It scarcely need be pointed out that such an exploration should lead the scholar to considerations of those subtle changes which take place when not merely the institutions from which the concepts are derivatives, but also the language in which the concepts are expressed, has changed. Studies of this type—best done thus far in connection with interpretations in English of the terms of ancient Greece—are obviously basic also in the understanding of the Latin medieval thinkers, to mention one group only. In the contemporary scene, I well remember a remark of Thomas Mann to the effect that the concept of

"power" carried quite a different meaning in German (both the language and the culture) than in English. In the former, it was an end, in the latter, a function.

Here and there a political theorist has recognized explicitly the obligation of his theory and his concepts to the institutions of his own time, and has claimed for this theory and these concepts only that degree of validity which comes from a correct analysis of the particular culture pattern of his experience.[1] This suggests another series of fruitful researches, some of which have already been undertaken, but more of which are obviously needed. These researches would center around the contribution to the theorist's finished product of the institutions he observed and experienced as well as of the books he read and the teachers to whom he listened. Such research would pay particular attention to *changes* in these institutions, which are then reflected in changes in the operative meaning of the concepts used to describe them. An approach of this type would lend greater precision to our understanding of even the greatest of political thinkers. If these explorations can probe more deeply and include the total cultural context within which the political institutions operate and a part of which they are, so much the better.

This is not to say that there are no constants among the concepts, that is, concepts whose meaning is or can be independent of time, place, and cultural setting. Yet it is doubtful if concepts of this sort can be found among those deemed the peculiar property of the political scientist. Down through history, our preoccupation as a profession has been with the state, and the state is an institution whose attributes of necessity change with the changing culture of which it is an integral part. If there are to be constants among the conceptual tools of the political scientist, they must be borrowed tools from the social psychologist, the sociologist, the cultural anthropologist, and (possibly) the historian and the geographer. These sister social sciences, unlike our own discipline, at least purport to deal ultimately with basic or universal characteristics of man as an individual and in his social and environmental relationships. In the case of the first three disciplines, many concepts are independent of both time and place; in the case of the geographer, some concepts are independent of time; in the case of the historian, independent of place in so far as a philosophy of history is sought. The change in their meaning from thinker to thinker is an effort to approach nearer an admittedly existing absolute, whereas the concepts of a derivative science like politics in so far as they are peculiar to politics are cultural traits of the period.

It is at this point that the serious researcher in political theory is invited to use these concepts of these other social sciences in order to illuminate

[1] This is the approach used in the author's *Modern Government in Action* (New York, 1942), which lays no claim to permanent truth. Cf. especially pp. 10, 26, 36.

political phenomena—whether of the past or the present. Research armed with such tools can promote better understanding of all the great thinkers. For example, a great book remains to be written on the fashion in which theory as to the nature of man has determined the political theory of many, and perhaps all, the greatest political theorists; and a still greater book can then be written upon how the contemporary insights and findings of social psychology and cultural anthropology sift the permanent from the ephemeral in their political theory. Hobbes, for example, can best be attacked on the basis of the incompleteness, and even the falsity, of his view as to the nature of man—but the tools for the attack are the concepts of the social psychologist, and not the exclusive, or even the primary, property of the political theorist.

Environmental factors, in giving a cast to governments and to the theorists' dealing with governments, are likewise constants among the battery of concepts which the political theorists must and should borrow, in this case from the geographer. These are naturally concepts associated with landscape—islands, the sea, valleys, mountains. They open up a series of researches which can and should have results in political theory of considerably greater validity than the para-science of *Geopolitik*, which attempts to bend them to serve a preconceived end. Some of the major concepts of the sociologist—assimilation and conflict, for example—furnish *foci* of research for the political theorist as he examines their manifestations within the operations of the state. As a matter of fact, power—the one constant among the concepts which the political scientist of late has claimed as peculiarly his own—is essentially sociological in that it is an attribute of organization and human relations wherever found, and not of the state alone.

A further promising avenue for research and precise thinking has to do with the various conceptual *systems* used by political theorists—not only in the past but among our contemporaries. Confusions in classification and fuzzy thinking generally are often traceable to error at this point. It has already been suggested that most that has proved ephemeral in the writings of theorists of the past is probably attributable to the mutability of the institutions which influenced their thinking and the mutability of the larger culture pattern of which these institutions were parts. Still another, and by no means negligible, part of their unsoundness is traceable to a failure either to adopt an internally consistent conceptual system, or, alternatively, to indicate the shifts from one system to another.

A conceptual system must ultimately be derived from classification of a particular attribute of events. "One classifies on the basis of attributes. Material things, for example, are sorted by such things as color, weight, uses, form, substance. Our problem in social science is accordingly to discover attributes of our own peculiar phenomena—attributes which are at

one and the same time distinguishable and significant. If we reduce the phenomena of social science to its integers or simplest forms, these phenomena may be spoken of as 'events'—that is to say, situations or changes of any sort in the relationships between human beings.

"Just as with material objects, each event in the field of human relations may be thought of as likewise made up of a number of attributes. [The word 'attribute' as used includes 'aspect.'] A consistent basis of classification of events must, accordingly, confine itself to different manifestations of a single attribute or type of attributes, which attribute occurs in all the phenomena thus classified. [In certain instances, the presence or absence of a specific attribute may furnish a basis.]"[2]

In history, for example, it is the time attribute of events, in social psychology, the inborn drive, that furnishes the distinctive conceptual systems of these disciplines. At least six such attributes can be discovered which create as many distinct conceptual systems in political theory.[3] These systems arise from considering (1) events pertaining to the state as an institution (the "orthodox school"); (2) events exhibiting the power relationship (Merriam); (3) events which are derivatives of an inborn social instinct or drive—a conceptual system especially favored by the Greeks; (4) those portions of events traceable to an alleged inborn desire for dominance; (5) "To many of the idealists among political theorists, the 'state' is defined in terms such as 'the operative criticism of all institutions' (Bosanquet), while law is abstractly thought of as the incorporation of the community values. Such approaches to political science (or theory) derive from the frame of reference of 'facts and meanings.'"[4] (6) events classified so as to isolate the social processes of securing adherence to norms and administering groups (Leon Marshall). Doubtless there are other systems which will yield to research, but at least the foregoing are already identifiable as constituting conceptual systems which the political scientist may claim as his own. The fact that so many differing orbits of our subject-matter are implicit in these different systems accounts in large measure for the confusion in defining, not only the scope of our discipline, but even its core. Number 6, for example, which is unadulterated sociology as well as illuminating political science, carries the researcher far afield to organized activity wherever found.

Along quite a different line there would seem to be a happy hunting ground for the researcher in exploring the converse relationship between philosophies and institutions. Usually research in political theory seeks to trace the origin of theories in the experience of observation of institutions by their exponents. Far less research has been done to discover the

[2] Ernest S. Griffith, "Classification of Social Science Phenomena," *Journal of Social Philosophy*, Vol. 6, p. 231 (Apr., 1941).

[3] *Ibid.*, p. 241 f. [4] *Ibid.*, p. 242.

normal constitutional expressions of the great schools of thought—liberalism, socialism, communism, fascism, Catholicism. In connection with this area of potential research, attention should be called to a noteworthy similar study by Fritz Karl Mann in which the fiscal systems expressive of these various philosophies were made the subject of investigation.[5]

Closely related to this area of research would be inquiries designed to ascertain how far the breakdown of a constitutional system arises from a gulf between the values behind it and the technology within which the institutional expression of these values must operate. The cultural compatibility of various political institutions and devices with the prevailing philosophies or value systems of the people living under them offers an alternative approach.

Finally, there is urgent need for inquiry into the applicability or appropriateness of *any* of the commonly used conceptual systems in analyzing contemporary political phenomena. If, as has been suggested, the concepts of political science under most conceptual systems are definitely derivatives of institutions in themselves ephemeral and are not constants, then during or following major changes in these institutions we should be on the alert for new or revised groups of interrelated concepts, or even a new conceptual system altogether. Many, if not most, of the concepts with which we are familiar, even at the present day, were in fact merely frequently observed relationships or processes in the state as an institution in former times and under differing circumstances. Such concepts are separation of powers, legislature, executive, judiciary, federalism—to mention a few of the most obvious. If we direct our attention especially to the most frequently used trilogy—legislature, executive, judiciary—we note changes so profound as to render not only their present meaning, but also even their usefulness, suspect. If perchance this trilogy should be a product only of a liberalistic culture, and associated with or appropriate only to such a culture, then the manifestations of organization, administration, and power in all sectors of contemporary society, and especially in government, ought to find as their by-product new ways of talking about government, that is, new concepts in political theory. In another connection, the author has explored this hypothesis more fully, and has suggested that the new political relationships or processes which are basic to the emerging governance of a technological and organizational age are at least six: value adoption, leadership, popular influence and control, planning, adjustment, and research.[6] In some such pattern lies the true architecture of political theory of the immediate future.

May we summarize? Research in political theory can and should be directed to many ends. Chiefly it has concerned itself with individual theo-

[5] Mann, *Steuerpolitische Ideale* (Jena, 1937).

[6] E. S. Griffith, *Modern Government in Action* (New York, 1942).

rists, with schools of thought, and with periods. Without at all underrating the need for further research of these types, a plea is in order for more research at another, and probably more fundamental, level—that concerned with the concepts basic to all political thought. Such research will do much to render more luminous the meanings of even the greatest of the political theorists. A contribution to our science surely fully as great will then be the quests suggested in this article—the quests for the origin, development, changing meanings, and contemporary suitability of these concepts themselves.

IV. POLITICAL THEORY AND THE PATTERN OF GENERAL HISTORY

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I

In speaking of the general history of political ideas, we have in mind the field that is represented with distinction by such treatises as that of Dunning, or McIlwain, or Sabine, or Cook. The problems of this field and their further development are of specific importance for American scholars. For, while the monographic literature on the various phases of this history is international in scope, the general history as such is almost an American monopoly from its beginnings. When Dunning published the first volume of his *History of Political Theory* in 1901, Janet's *Histoire de la science politique dans ses rapports avec la morale* was the only noteworthy competitor. Janet's *Histoire*, however, as Dunning rightly remarked, stresses primarily the development of ethical doctrine; and that was precisely the field which Dunning wished to avoid in order to isolate clearly the development of political, as distinguished from ethical, theory. A science, however, that may be said to have begun with Dunning's work is a young science; and, as happens with young sciences, a field is staked out, while the details are far from being settled. They are even less settled today than at the time of Dunning, because the last two generations have witnessed a prodigious enlargement of our knowledge of historical materials and, at the same time, there has occurred a serious revision of our views concerning the structure of history. It will be advisable, therefore, to begin with a few remarks on the ways in which the development of historical science has affected the more special problems of a general history of political ideas.

The historians of political ideas have followed, on the whole, the "straight-line" pattern of history, according to which the history of mankind moves in continuity through the ancient, modern, and medieval

phases. The idea that human history moves along a straight line is by origin a theological conception, deriving its strength from the Christian belief that mankind moves through a sequence of meaningful phases according to a providential plan of salvation. The pattern was established by the early Christian philosophy of history, in the period from the *Letters* of St. Paul to the *Civitas Dei*. Its empirical usefulness in the post-medieval period was largely dependent on the chance that the medieval spiritual and intellectual contraction of the historical horizon to the Western World would be continued; the belief in the straight line could be maintained as long as the independent parallel histories of non-Western mankind were simply overlooked and the pre-classic civilizations were practically unknown.

By naming the conditions for the maintenance of the linear pattern, we have indicated the sources of its disturbance. The disturbances are connected with the successive breaches made in the closed medieval horizon. The first, and hitherto most important, irruption of new materials—that of classic antiquity—was digested with comparative ease. The straight-line pattern was simply shifted from sacred history in the Augustinian sense to a new profane history. In the practice of writing history, this meant that the Israelitic history as the Western pre-history was relegated to a second plane and replaced by Hellenic history, and that, furthermore, the Middle Ages slipped into the category of the "Dark Ages." But the ease was comparative only. It is forgotten today that not all humanists of the fifteenth and sixteenth centuries swallowed without resistance Graeco-Roman antiquity as the linear pre-history of the Renaissance. The contemporary Near Eastern events were sufficiently impressive to suggest a construction of profane history on the pattern of parallel streams. We have letters of Poggio in which he shows himself sick and tired of the glory that was Greece and Rome and ranks the military and political achievements of Tamerlane higher than those of Caesar; and Louis LeRoy understood the conquests of Tamerlane as the decisive event which opened the new period of the Renaissance politically and civilizationally. The impression of Asiatic politics, as the model of what politics might be on a grand scale, was considerable at the time; but this tendency to give meaning to the structure of Western history by orienting it toward the parallel Asiatic events was superseded by the shift of the center of politics to the Atlantic, with the discovery of the sea-routes and of America. The linear pattern remained afterwards fairly intact to the time of Hegel.

The generation after Hegel had to grapple again with the problem of parallel, non-Western developments. The first decisive document of the new situation is Bruno Bauer's treatise on *Russland und das Germanentum*, in 1853; the rise of Russia began to influence our picture of European history as one of several parallel streams. The revisionary movement was

accelerated by the gradually increasing knowledge of the Near Eastern pre-classic and of the Far Eastern civilizations. The integration of the new knowledge in a work that gained wide popularity, in Spengler's *Decline of the West*, did not meet with complete approval, because Spengler, setting aside the dilettantisms in detail, was so eager to demonstrate the plurality of civilizational histories that he overreached the mark and neglected the fact that some of these civilizations are not isolated from each other, but are related by the transmission of a considerable civilizational heritage. The linear pattern had to be qualified by insight into the internal cyclical structure of civilizational histories, but it still was empirically applicable to a stream of meaning running in continuity through Graeco-Roman antiquity and the Middle Ages into the modern West; and that stream of meaning was revealed as originating even farther back in the pre-classic Near Eastern civilizations. The revised pattern of history is today used in Toynbee's *Study of History*, of which six volumes have been published.

In what manner do these changes in the pattern of political history affect the history of political ideas? The answer will depend on our definition of the political ideas of which we intend to write a history, and of their relation to the political environment in which they grow. A first answer to these questions could be the assumption that the history of political ideas does not show an internal structure of meaning at all, and that, as a consequence, the historian can do nothing but record ideas concerning political problems in their chronological order. The result would not be a history, if by history we understand the unfolding of a pattern of meaning in time, but a chronological encyclopedia. This assumption has hardly ever been made on principle, but in practice we sometimes find an approximation to it when a historian's desire to be complete becomes stronger than his power to organize a structure of meaning.

Of greater practical importance has been the assumption that only highly integrated systems of thought, like the Platonic, the Aristotelian, the Thomistic, are of real historical significance because only in instances of this type do political thinkers approach a treatment of their topic that can be called scientific. We can make the degree of scientific achievement the standard by which to measure the relevance of a system of thought. If we make this assumption, the pattern of political history would have little bearing on the pattern of a history of political ideas. A tendency in this direction is discernible in Janet's *Histoire*. It originated in a study comparing the moral and political philosophy of Plato and Aristotle with that of modern publicists. The result was the conception of a "true" system of political thought, holding the middle between Platonic moral absolutism and Machiavellian amoral, political technicism. The true middle is represented by the ideas of the Declaration of the Rights of Man and the Citizen, which considers it the function of the state to provide the frame-

work in which man can develop his moral destiny as a free agent. The history of politics since 1500 shows progress in the desired direction. A consistent application of this principle would have required the elimination of all materials which cannot be integrated in a line of progress toward the ideal aim. But such consistency is not to be found in Janet any more than in other historians who make similar assumptions of an absolute standard of political thought. Janet plods conscientiously through history from ancient times to the French Revolution, giving thereby to his work rather the touch of the chronological encyclopedia. The encyclopedic character is particularly marked because the part on classic antiquity, which opens the treatise proper, is preceded by a "preliminary chapter" on China and India, for no other good reason than that the Chinese and Hindus exist; an integration of the Far Eastern body of thought into a general pattern of history is not attempted.

The work of Dunning marks a tremendous advance of methodological consciousness over Janet. Dunning uses the term "political theory" in order to distinguish his principle of selection from Janet's "political science." "Political theory" is every scrap of idea, whether integrated into a scientific system or not, which tends to explain the origin, nature, and scope of the authority of rulership. This wide definition could cover the ideas concerning authority among primitive tribes as well as those produced in the vast stretches of history between the great systematic thinkers. Dunning restricts, however, this liberal definition by confining the meaning of "political theory" more narrowly to those theories which presuppose the idea of a "state," as distinguished from the family and the clan. By this restriction he is enabled to eliminate from the field the ideas of primitives, while retaining all non-systematized theories which deal with the phenomenon of political authority, as for instance, mentioned specifically, the theories of Burke and American political theory. The substitution of "theory" for "science" has, moreover, the advantage of breaking with the prejudice "that formal political science is more a cause than a result of objective political history." A theory is important, not because of the scientific insight which it embodies, but because it is in touch with "the current of institutional development." Hence, the historian of theory will have to depart on occasion entirely from the literary expressions of theory and to interpret the theoretical content of institutions themselves if no other source is available. The history of theory thus is subordinated for its pattern to the structure of political history—with an exception, however, which we have to discuss presently. The pattern of history will be decisive, therefore, for the historians who follow the principles inaugurated by Dunning.

The weak point of Dunning's *History* is the Middle Ages. The weakness is due to Dunning's conception of "progress" in political history. By

progress in politics, he understands the differentiation of an autonomous sphere of politics, and the disentanglement of political conceptions proper from ethical, theological, legal, and other contexts. Such differentiation was achieved by the Greeks (in Dunning's opinion); and it was again achieved in modern history. Political theory is largely an account of this progress; when such progress ceases, the history of political theory ceases. On these grounds, Dunning can eliminate Far Eastern theory from the field, which does little damage to the project of a history of Western political theory because the connections, if any, are thin; but he also eliminates the Near Eastern pre-classic history, which does considerable damage, because a good deal of Western political thought is deeply rooted in the Mesopotamian, Persian, and Israelitic pre-history. The worst, however, was that he eliminated the Middle Ages. His assumption compelled him to declare: "The Middle Age was unpolitic." Medieval theory is political only in so far as it is concerned with the separation of Church and State. "Medieval political philosophy is in fact exhausted when it has propounded a theory as to the relation of secular to ecclesiastical authority." This sweeping statement that the Middle Age was devoid of political history, except in so far as the State was separated from the Church, was hardly tenable in 1901, when it was made; it certainly is not acceptable today. The definition of politics has to be revised in such a manner that we can deal adequately, not only with the later phases of civilizations which show the differentiation of spheres, considered progressive by Dunning, but also with the equally important early phase of a civilizational cycle, in which the temporal power, as in the Middle Ages, is considered one order in the embracing mystical body of Western Christian mankind. The elimination as irrelevant of a phase of history which is in direct and broad continuity with our own, because its structure of political ideas differs from ours, cannot be justified by any standards of scientific method.

The weakness of Dunning's *History* has been corrected, on principle, by Professor Sabine's *History of Political Theory*, published in 1937. Professor Sabine adopts Dunning's principle that political theory is a function of politics and that, therefore, the pattern of a history of theory has to follow the pattern of political history. He does not adopt, however, the principle of "progress." "The substitution of the belief that there is a determinate order of evolution or historical progress for the belief in rational self-evidence displaced an unverifiable idea with one still less verifiable." Neither the conception of an ethically right order, like Janet's, is admissible as a standard of selection from this position, nor an arbitrarily restrictive conception of politics like Dunning's. The historian has to follow with impartial loyalty the structure of theory as it reveals itself in history, whether it reflects the problems of a differentiated sphere of politics, or whether it reflects an undifferentiated complex of community order in-

cluding "morals, economics, government, religion, and law." Applying these principles to the historical materials, Professor Sabine has organized them into three great parts: the Theory of the City-State; the Theory of the Universal Community (from Alexander to the end of the Middle Ages); and the Theory of the National State. With the elaboration of this methodological position, the problem of principles has come to a rest. The structure of a history of political theory is unconditionally subordinated to the structure of political history. From the acceptance of this principle follow the problems which today are the main concern of the historian of political theory: he has to be clear, first of all, about the pattern of history which he wishes to adopt as the basis for the organization of his materials (Toynbee's pattern, or perhaps another one); and, secondly, he is faced by the never-ending concrete task of classifying and adequately integrating the richly flowing stream of new materials.

II

If we accept the principle elaborated in the preceding section, a number of problems will arise from the necessity of harmonizing the history of theory with political history. The following remarks will suggest some points at which such harmony is not yet achieved. The pattern of history presupposed in these suggestions is principally determined by Toynbee's *Study of History* and by the studies contained in the *Cambridge Ancient* and *Cambridge Medieval Histories*. The reader should be warned again, however, not to mistake these modest, casual remarks for a presumptuous list of desiderata for a general history of theory; they simply draw attention to the more or less obvious fact that we possess on the one hand a wealth of monographic studies on special phases of political theory, that we possess on the other hand a knowledge of political history far surpassing the knowledge of a generation ago, and that the historian of political theory, as a consequence, has the fascinating opportunity of trying his hand at bringing the two complexes of knowledge together. This is hardly a feat to be achieved by one man at one stroke; the coöperative efforts of a great number of scholars will be necessary to produce an adequate solution. But we can at least approach the task by pointing to some problems which are typical of the wide field that is opening. The following enumeration of such problems, in chronological order, should not be taken for anything but a list of examples.

(1) Our knowledge of the Near Eastern pre-classic civilizations and of the Hellenistic period is now sufficiently advanced to make it clear that a history of theory can no longer legitimately begin with Hellenic theory. It is duly recognized that the theory of the *polis* ends with Aristotle, and that with Alexander and the Stoa a new type of theory makes its appearance. But there is still some hesitation to recognize the continuity of

the imperial Hellenistic period with non-Hellenic Near Eastern imperial history. Such recognition would entail a resolute break with the linear pattern of history and the construction of the Hellenistic period as an amalgamation of the Near Eastern and Hellenic streams of history. The Mesopotamian, Persian, and Egyptian theory would have to be accepted as a body of thought on an equal footing with the Hellenic, and it would have to be treated with equal thoroughness. The break with the linear pattern of history, however, is not the only reason that would cause some hesitation. The recognition of ancient Near Eastern history would also require a break with the widely accepted conception of political theory as a theory concerned with the explanation of governmental authority. The problems of governmental authority dominate the scene only in those phases of civilization in which the political communities themselves are established and taken for granted. In the initial phases of civilizational cycles, the problems of the community-substance, of its creation, its delimitation, and its articulation, are of equal importance with the problems of source and scope of governmental authority; and the same is true for the periods of political crisis, as for instance the present, when the problems of spiritual disintegration and regeneration, and of the community-creating political myth, come to the fore. The adaptation of the history of political theory to the process of politics would require a well elaborated theory of the ideas concerned with the mythical creation of communities, and of the far-reaching theological ramifications of these ideas. The task is formidable, but not hopeless. We are well equipped today with easily accessible sources, like the translations of Babylonian, Assyrian, and Egyptian sources, published by the Oriental Institute of the University of Chicago; and we possess a wealth of monographic literature, within which should be mentioned, as of particular usefulness to the historian of theory, the great study on the Ancient Orient by Alfred Jeremias.

(2) The formulation of a concept of political theory that will permit us to subsume the phenomena of rising communities, as well as those of the established ones, is perhaps the most important general task. It is indispensable for a more realistic treatment even of systems of thought which seem to be well understood by now, like the late Hellenic. Again, the problem as such is fully recognized. We know that Plato marks, not the beginning, but the end, of Hellenic theory; and we know that his political philosophy is a theory not of the *polis*, but of the lethal crisis of the *polis*. Nevertheless, the understanding of Plato's philosophy as an attempt at a spiritual reform of Hellas and as an attempt to create a new community-substance leaves much to be desired, because the theoretical apparatus that would be necessary for a thoroughgoing analysis of this question is insufficiently developed. Help can be found again in the monographic

literature, particularly in the works of Friedemann and Hildebrandt which accentuate this aspect of Platonic theory.

(3) The treatment of the Roman imperial period will have to undergo a complete revision. The later volumes of the *Cambridge Ancient History*, published in the thirties, have for the first time put at the disposition of the scholar who is not a specialist in Roman history a digest of the otherwise almost inaccessible materials for a history of Roman imperial theory. In addition, there should be mentioned the great monograph on the principate by von Premerstein, which gives new insights into the sacramental coherence of the early Empire through the oath to the *princeps*.

(4) The appearance of Christianity raises again the question of the conceptual apparatus for its treatment. The cautious evasion of religious problems and of the creation of the mystical body of Christ is untenable. If we dodge the question of the *pneuma* of Christ and of its function as the substance of the Christian community, nothing is left of Christianity but the reception of Stoic ethical and legal theory, a few remarks concerning the recognition of temporal authority, and the hierarchy of functions. The substance has disappeared. As a consequence, the struggle between Christianity and the counter-religion of paganism in the late Roman Empire becomes quite as unintelligible as the community problem of the Middle Ages. It will not do to eliminate from the field of political theory the theory of the community within which the structural political problems arise by classifying it as religious. Precisely the so-called non-political ideas, as for instance the eschatological sentiments and ideas, are the great source of political fermentation and revolution throughout Western history to this day.

(5) Great difficulties have to be overcome in the treatment of the Middle Ages. Let us first isolate one of the more manageable problems, that of the migration period. Dunning was still of the opinion that we did not know anything about the political theory of the Teutonic tribes which were the active nucleus in the formation of the Western Empire and of the later national states. The assertion was hardly true in Dunning's own time; it is still less true today. We have the histories of the migration period (Jordanis, Isidorus, Paulus Diaconus, etc.) and a wealth of other sources, as well as a rich modern monographic literature. As a result, we can draw today a solid picture of the Teutonic political ideas which have entered as an integral part into the conception of Western kingship. The gap which mars most histories of medieval political theory, as for instance that of Carlyle, can be closed.

(6) The great problem, however, is a satisfactory organization of medieval materials beginning with the ninth century. We have today two major treatises on the subject, the *History of Mediaeval Political Theory in the*

West by the Carlyles and the *Sacrum Imperium* by Dempf. The two works complement each other admirably; and thanks to them we can see today at least the outlines of a problem and its solution that were rather dark even twenty years ago. The *History* of the Carlyles is an indispensable, encyclopedic mine of information on a vast body of materials; but it is incomplete in so far as the principles on which it is built did not permit the authors to include the body of literature which concerns the vicissitudes of the medieval community-idea. The most serious gap is probably the omission of the Joachitic and Franciscan spiritual literature, which marks the beginning of the ideas of a Third Realm and of possible new mystical bodies replacing the mystical body of Christ. Dempf's *Sacrum Imperium* stresses precisely these aspects of medieval problems, but it is incomplete as a medieval history because it concentrates on the fate of the *sacrum imperium* and, therefore, cannot give sufficient attention to the growth of the institutions and ideas which resulted in the formation of the national states. Both treatises fail to include the body of literature connected with the sectarian movements. These movements constitute one of the important "parallel" streams of history; it merges with the main Western stream in the Reformation and gives to post-medieval politics one of those supposedly "modern" touches due to the elevation to the main level of civilizational development of political habits and thoughts which in the Middle Ages remained sub-institutional. For these gaps we possess, however, a rich monographic literature, amidst which should be mentioned two great American contributions: the studies on medieval institutions by Professor McIlwain and the studies on mystical religion by Rufus M. Jones.

This enumeration of examples has not touched upon the great complexes of the Byzantine, Islamic, and Jewish medieval "parallel" histories and their contacts with Western history; nor has it touched upon the problems of harmonization between the histories of theory and of politics which arise for the modern period. But it is hoped that the list has brought out the methodological principle which must guide us in the formulation of our task. The field for research is wide open; there is no lack of problems, only a lack of strength to deal with them all at once.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

Publication of the first official *Directory of the American Political Science Association*, containing biographical sketches of all members, is planned for the current year. Members of the Committee on the Directory are Kenneth Colegrove, Northwestern University, *chairman;* Franklin L. Burdette, Butler University, *editor;* William Anderson, University of Minnesota; John E. Briggs, State University of Iowa; Robert E. Cushman, Cornell University; Frederic A. Ogg, University of Wisconsin; and Leonard D. White, University of Chicago. The editorial expense of the *Directory* has been covered by a grant from the National Foundation for Education. Questionnaires have been mailed to all members of the Association, and it is hoped that every member will send the requested information to Franklin L. Burdette, editor of the *Directory*, Butler University, Indianapolis 7, Indiana. The mail of many members of the Association now in military or government service may not be promptly forwarded. The Committee on the *Directory*, accordingly, desires to request all members of the Association who have knowledge of the addresses of their colleagues in military or governmental service to assist the Committee in forwarding the questionnaire as rapidly as possible to such colleagues. Copies of the *Directory*, paper bound, will be sold to members of the Association at $1.00 per copy (cloth bound, $2.00); to non-members, prices will be $2.00 (paper) and $3.00 (cloth). Postage will be paid on orders accompanied by remittance, but mailing cost will be added to other orders.

Professor Lloyd M. Short, of the University of Minnesota, is occupied in Washington during the summer with an exploratory study of problems affecting social scientists in the national service. The study is being carried on under the auspices of the Committee on Public Administration of the Social Science Research Council.

Professors James T. Young and Roland S. Morris, of the University of Pennsylvania, have been made emeritus professors of political science as of July 1, 1944.

Dr. Harold W. Stoke, professor of political science and recently acting dean of the graduate school at the University of Wisconsin, has been granted a year's leave of absence and is now engaged in research in the Bureau of the Budget at Washington.

Professor Thomas I. Cook, who for a year and a half has been connected

with the Twelfth National War Labor Board, will return in October to his teaching duties at the University of Washington.

Dr. J. C. Phillips, of the University of Pennsylvania, is serving as fact-finder for the Adjustment Board in the ship-building industry.

Mr. George Fort Milton gave three lectures during the summer session at the University of Chicago on problems of congested areas; and in connection with an institute sponsored by the department of education, Professor C. Herman Pritchett lectured on future forms of international organization.

Mr. Herbert Emmerich has resumed his connection with the University of Chicago as lecturer in political science, subsequent to his resignation from the post of director of the Federal Housing Administration, in order to become associate director of the Public Administration Clearing House.

Professor L. Keith Caldwell, formerly connected with Indiana University, and the author of a forthcoming book on the contributions of Hamilton and Jefferson to administrative thought, has accepted an appointment with the Council of State Governments at Chicago.

Professor Charles E. Merriam has accepted another annual appointment at the University of Chicago as professor on the Walgreen Foundation and will give lectures on the history of American political theory.

Professor Hans J. Morgenthau, of the University of Kansas City, has been appointed for a second year as visiting associate professor of political science at the University of Chicago.

Professor H. Gordon Skilling is on leave from the University of Wisconsin for a year and has become head of the European section of short-wave broadcasting which the Canadian Broadcasting Corporation will set up this autumn. His place at Wisconsin will be filled by Dr. Alfred P. Fernbach, of the University of Virginia.

Professor Lee S. Greene, of the University of Tennessee, has been appointed by the Regional War Labor Board of Atlanta as a public member of labor disputes panels in Tennessee.

Professor Robert R. Wilson, on leave from Duke University for a period of twelve months, is serving as a consultant in the Department of State.

Professor Lane W. Lancaster, of the University of Nebraska, is teaching in the summer session of the University of Alabama.

Professor R. S. McCordock has been granted leave of absence by the Lincoln Memorial University to accept a duration appointment with the historical branch of the Chemical Warfare Service.

Three regular members of the staff of the University of Oklahoma department of government—Royden J. Dangerfield, Oliver E. Benson, and Joseph C. Pray—are now serving as officers in the U. S. Navy.

Lieutenant Edward W. Carter, who has been in service with the U. S. Navy, will return to his teaching duties at the University of Pennsylvania in the autumn.

Dr. William P. Maddox, of the University of Pennsylvania, now in service in London with the Office of Strategic Services, has been promoted to Lieutenant Colonel in the U. S. Army.

Professor Charles M. Kneier, of the University of Illinois, at present in charge of the work in public administration in the School of Military Government at Charlottesville, Va., has been promoted from the rank of Major to that of Lieutenant-Colonel.

Professor Charles B. Hagan, who for the past two years has been visiting lecturer in government at Harvard University, returned in August to his regular duties at the University of Illinois.

Professor Henry Reiff has been appointed chairman of the department of history and government at St. Lawrence University, succeeding Dr. Albert B. Corey, who has resigned to become state historian of New York.

Professor G. Leighton La Fuze, of Stetson University, is teaching at the University of Florida during the second term of the summer session.

Professor A. N. Christensen, at present in Argentina as a Cultural Relations officer with the Department of State, expects to return to his post at the University of Minnesota in the spring of 1945.

Mr. Arthur Naftalin, instructor at the University of Minnesota, has been awarded a Social Science Research Council Predoctoral Field Fellowship for 1944–45, to make a study of the Farmer-Labor party in Minnesota.

Professor Hugh A. Bone, of Queens College, is teaching during the summer at Connecticut College.

Professor W. Leon Godshall, of Lehigh University, is serving as visiting professor at Miami University from July, 1944, to September, 1945.

Dr. Marian D. Irish, of Florida State College for Women, has been appointed consultant and personnel technician for the Governor's Com-

mittee on Governmental Research. She is directing a state-wide survey of all positions on the state pay-roll.

At the University of South Dakota, Dr. R. F. Patterson has been promoted from associate professor to professor of government and director of governmental research.

Dr. M. M. Chambers, formerly with the American Council on Education, and on active duty as an Air Corps officer since 1942, stationed at AAF Technical Training Command Headquarters in St. Louis, has been promoted to the rank of Major.

Dr. Gerhart Niemeyer has resigned his assistant professorship at Princeton University in order to accept a position as head of the School of Citizenship at Oglethorpe University, Atlanta, Ga.

Professor J. Perry Horlacher, on leave from the University of Pennsylvania, is chief of the Wage Analysis Section of the Regional Office of the National War Labor Board in Philadelphia.

Miss Dorothy Shields, formerly of Pennsylvania College for Women, is now director of admissions and professor of political science at Goucher College.

The University of Pennsylvania and Temple University have made available a university scholarship at each institution for the study of public administration. These scholarships are open to any federal employee in the Third U. S. Civil Service Region who holds a bachelor's degree. The initial work in securing them was done by the Philadelphia Federal Council of Personnel Administration, whose chairman is Professor W. Brooke Graves.

The Philadelphia Federal Council of Personnel Administration will hold a three-day conference on federal personnel management at the University of Pennsylvania on October 24–26, 1944. Among participants will be Professors W. Brooke Graves, Charles C. Rohlfing, Raymond S. Short, Stephen B. Sweeney, and R. Jean Brownlee.

At Ohio State University, Professor E. Allen Helms has been made chairman of the interdepartmental committee to supervise the new four-year curriculum in international studies.

At New York University, Drs. Dale A. Hartman and Ray F. Harvey have been promoted to associate professorships, and Mr. Theodore H. Skinner to an assistant professorship. Professor Harvey has been appointed executive secretary of the program for training personnel specialists in the Division of General Education.

Dr. Emerson David Fite, the first professor of political science at Vassar College, retired in June after thirty-one years of service. Two new members have been added to the department: Frances Priscilla DeLancy (Ph.D., Duke University) and Dorothy Beatrice McCown (Ph.D., University of London), both as assistant professors. Associate Professor Charles Gordon Post is chairman of the department.

Professor Henry P. Jordan, of New York University, gave lectures on Latin American affairs this summer at the Latin American Institute conducted at the University of Wisconsin, at Eau Claire State Teachers College, Wisconsin, and at the Inter-American Workshop, University of Chicago. This winter he will be a guest lecturer on problems of the Caribbean at the New School for Social Research, and also will offer a course on international economic relations at the School of International Cooperation, New York City.

Dr. Paul Dolan, instructor in political science and public administration at the University of Delaware, is now in service with the U. S. Naval Reserve in Omaha, Nebraska.

Mr. John E. Mason, during the past two years with the Agricultural Adjustment Agency, has returned to the Bureau of Agricultural Economics as regional leader for the Appalachian Region, Division of Land Economics, with headquarters in Washington.

The Philadelphia Federal Council of Personnel Administration of the Third United States Civil Service Region will hold a three-day personnel management conference at the University of Pennsylvania on October 24–26. Dr. W. Brooke Graves is chairman of the Council.

At the University of Pennsylvania, a series of weekly meetings, conducted by Drs. J. C. Phillips and Edgar B. Cale, have been held with selected senior students from the Philadelphia high schools and parochial schools for discussion of current problems of Philadelphia's municipal government.

Professor John Alley, of the University of Oklahoma, died suddenly at his home in Norman on May 15, at the age of sixty-nine. He was finishing his thirty-third year as a member of the department of government, specializing in American and comparative government. He held a baccalaureate degree from Harvard and a master's degree from Wisconsin, and had, in addition, done some graduate work in French universities. A veteran of both the Spanish-American and First World Wars, Professor Alley was a Lieutenant-Colonel in the Army Reserve at the time of his death.

The ninth annual session of the Institute of Government was held at the University of Washington, July 24–28. Sectional meetings were devoted to law enforcement, conservation, public welfare administration, veterans' assistance, civic unity, planning and personnel administration, and public library administration.

The seventh annual Oklahoma Institute of International Relations, conducted by a faculty committee under the chairmanship of Professor Cortez Ewing, was held at the University of Oklahoma, June 15–21. The general theme was "Political and Economic Reconstruction of Europe," and lectures were given and round-tables conducted by a number of visiting scholars.

Dr. Robert D. Leigh, former president of Bennington College and more recently director of the Foreign Broadcast Intelligence Service of the Federal Communications Commission, has been appointed visiting professor of political science at the University of Chicago and director of the Commission of Inquiry on Freedom of the Press, whose chairman is President Robert M. Hutchins of Chicago. He will maintain headquarters in New York City; and his post with the FCC has been filled by the appointment of Dr. Charles S. Hyneman, who has occupied a number of other important positions in war-time Washington.

Hon. Summer Welles has signed an agreement with the Harvard University Press to edit a series of some twenty books on the relations of the United States with foreign countries. Donald C. McKay, associate professor of history at Harvard, and now on leave with the Office of Strategic Services, will be associate editor. Present plans call for volumes of 40,000 words, and the first ones are scheduled for publication early in 1945. Announcement of the names of the authors will be made later.

Professor Carl J. Friedrich, of Harvard University, has been director of Harvard's School for Overseas Administration since the first of February, 1943. The School has graduated one class of trainees in the Army Specialized Training Program, Area and Language—Advanced Phase, and two other classes are studying there now. In addition, there have been four classes under the Civil Affairs Training Program of the Military Government Division of the War Department. The staff of the School has been drawn from many departments of the University, and from the experience gained has developed a new sense of teamwork and an insight into the possibilities of integration of the social science disciplines which may have far-reaching effects in post-war university education.

A considerable number of political scientists are serving with American military forces in England. Major Howard Jones (National Municipal

League), Captain M. M. Knappen (Michigan State College), Captain L. D. Gresh (DePauw University), and Captain Harold Zink (DePauw University) are assigned to the Supreme Headquarters of the Allied Expeditionary Force. Major K. C. Leebrick (president of Kent State University) is assigned to the Historical Section; Major H. M. Stout (American University), to the Office of Military Attaché in the Embassy; Major W. P. Maddox (University of Pennsylvania), to the Office of Strategic Services. Majors Arthur Bromage (University of Michigan) and Rodney Mott (Colgate University) are with the training division of Civil Affairs, helping to train officers in our organization. Captain Walden Moore (University of Rochester), Captain A. M. Hillhouse (University of Cincinnati), and Lieutenant W. W. Crouch (University of California at Los Angeles) are on Civil Affairs teams or in the specialist pool.

In the April issue of the REVIEW, the work of the Committee on War Studies of the Social Science Research Council was described in general terms (pp. 339 ff.). Recently, this Committee has issued a research outline entitled "The Impact of the War upon the World Position and Foreign Relations of the United States." The aim is not simply to record the diplomatic history of the country during a period of crisis, but to analyze foreign policy in terms of conditioning factors and forces. Thus stress is placed upon economic, social, political, ideological, and "power" phenomena, as well as upon diplomatic events themselves. The Committee envisages the use of this approach in the preparation of the volumes which will cover the pre-war period, the war itself, the peace settlement, and the impact of the war upon the conduct of American foreign relations. The outline mentioned may be obtained upon request, as may others in the same series, from Shepard B. Clough, Secretary of the Committee on War Studies, Social Science Research Council, 230 Park Avenue, New York 17, New York.

An American Association for an International Office for Education (headquarters at 135 West 44th St., New York City) was formed in December of last year to enlist support for the establishment of an International Office for Education. Its officers are: Harlow Shapley, president; James Marshall and George Johnson, vice presidents; Sylvan Joseph, treasurer; and Mary French, executive secretary. The organization supports a proposal to set up a permanent international agency on education, on the assumption that no peace program is complete which fails to place education on a parity with political organization, police, distribution of raw materials, the stabilization of currencies, and raising standards of health. The Association believes that an international organization for education with a permanent secretariat—an international education office —can be an instrument to create healthier relationships between peoples

and, through them, between nations, and that such an agency can materially contribute to the peace of the world by helping to improve educational standards, to clarify educational aims, and to foster intercultural fellowship and understanding.

Authoritative quarterly summaries of parliamentary debates for all English-speaking parliaments are now available as a result of the appearance of the new quarterly, *Summary of Congressional Proceedings, U.S.A.*, published under the auspices of the United Kingdom and Canadian Branches of the Empire Parliamentary Association. Since 1920, the debates of the thirty-three parliaments of the British Commonwealth of Nations, forming branches of the Empire Parliamentary Association, have been summarized by the United Kingdom branch of the Association in a similar quarterly Review—*The Journal of the Parliaments of the Empire.* The *Journal* is supported by parliamentary votes from a number of the different parliaments. It gives each quarter, in some 200 pages, an authoritative and impartial summary of all important parliamentary discussions and legislation covering matters of national, international, and general Commonwealth interest. It is thus a valuable source of information in the field of international relations and comparative government, and for this reason should be available in all important reference libraries and research institutions dealing with the social sciences, especially in view of the deeper and continuing interest of the United States in the British Commonwealth and its member states. The new *Summary* is published under the auspices of the United Kingdom and Canadian Branches of the Empire Parliamentary Association and will be distributed regularly to all members of British Commonwealth parliaments. Matters of general international concern or of special interest to legislators and officials of the British Commonwealth will receive special attention. Both the *Summary* and the *Journal* are published by the Oxford University Press, 480 University Avenue, Toronto, Ontario, Canada. Annual subscription to the *Summary* is $6.00, postage free ($1.50 for a single copy); to the *Journal* $5.00, postage free.

The Servicemen's Readjustment Act and Some Problems of Political Science Instruction. The Servicemen's Readjustment Act of 1944, commonly called the G. I. Bill of Rights, passed the two houses of Congress in identical form on June 13 and was later approved by the President. The provisions relating to education and training of veterans are expected to stand without essential modification, for the duration of the war at least. While it is possible that the policies embodied will be revised when the veteran gets back where he can make himself heard on the matter, colleges and universities can now plan their curricula and guidance programs with

as much foreknowledge as they are likely to get concerning the way the discharged soldier and sailor will fit into them.

The national government will foot the bill for refresher and retraining courses and for the continuation of education interrupted by military service. The benefits of the act are extended to every person (officer or enlisted man, male or female) honorably discharged who saw as much as ninety days of active military or naval service between September 16, 1940, and the termination of the war; but time spent as a cadet or midshipman in a service academy is not counted toward the ninety-day requirement; nor is the time spent in the ASTP or Navy College Training program counted if that course was a continuation of one's civilian education and if the course was completed. Every person covered by the act, regardless of his age, family income, or previous state of academic servitude, is entitled to a refresher or retraining course, and every person whose education was interrupted by his military service is entitled to resume his education. There is a conclusive presumption that anyone who was not over twenty-five years of age at the time when he entered military service (even if he entered in 1898, provided he continued past September 16, 1940) suffered an interruption of his education. The Veterans' Administration is charged with the administration of the act.

The assistance to which the veteran is entitled is fixed by the statute. The government will pay the school or training institution (but not an industrial establishment) a proper tuition, which may be more than is ordinarily assessed upon the student if the Veterans' Administration finds that the customary charge is "inadequate compensation." In addition, the government will pay the other proper fees and assessments, purchase textbooks and other proper supplies, and pay the veteran $50 a month (plus $25 a month if he has one or more dependents) to meet his living expenses. But the total cost to be borne by the government will not exceed $500 for "an ordinary school year."

Subject to the provisions governing the right to resume education as distinguished from the right only to enroll in a refresher or retraining course, the veteran will determine where he shall go to school and what course he shall take. If he can meet the entrance requirements, he may enter any school or establishment which the Veterans' Administration finds qualified and equipped to offer the requisite instruction or training, be it grade school, high school, commercial college, barber college, member of the Ivy League, or even the training program of an industrial establishment. Whatever the veteran does, he must start his training or education within two years after (whichever is later) his discharge from service or the termination of the war, and must complete his course within seven years after the termination of the war.

If he is eligible only for a refresher or retraining course, he is entitled to stay in training at government expense only until the course is completed, or for a maximum of one calendar year; but part-time study may be continued until the equivalent of a year of full-time study has been completed. If he is resuming education which was interrupted by the war, the veteran may stay in school with government assistance for one year plus additional time equal to the period of his service after September 16, 1940, up to a maximum of four years. But the Veterans' Administration may terminate government assistance to anyone who does not maintain a satisfactory record in his training course or in his educational program.

Such are the provisions of the G. I. Bill of Rights. More liberal arrangements for the training, education, and rehabilitation of the disabled veteran are established in earlier legislation (Public 16 of the 78th Congress).

The recent act has significance for political science departments, beyond the fact that a good many of the students can now be depended on to possess their own copies of the familiar textbooks. First is the problem of guidance. The Veterans' Administration has already set up at the College of the City of New York a guidance clinic to help the veteran determine what kind of training or education he wants and needs. When a little experience has been gained from this one, additional clinics will be established throughout the United States (probably one to five in each state), and the service given the veteran at these centers may be extended to include appropriate instruction which will carry him along until the opening of the next class or semester in the course of training or study which he expects to pursue. The STAR centers of the ASTP may prove models for the veterans' guidance and pre-training clinics. If political scientists have some special ideas about the kind of person who should be encouraged to go into government service, seek a place with a research and consulting service, attach himself to a civic enterprise or pressure group, or turn his career in some other particular direction, they will be wise to think the matter out now and lay their notions as soon as possible before the individuals who are to do the counseling in the guidance clinics.

A second matter for political scientists to ponder from now on is the nature of the instruction in government and politics that shall be included in the undergraduate and graduate curricula (in elementary and secondary schools, too, for that matter). It may not be possible to predict accurately what the returning veteran will want and will tolerate; we may have to work out some compromises between what he wants and what we want him to have. This, of course, is a matter of concern to the Association's recently appointed committee on curriculum (Benjamin F. Wright, Harvard University, chairman).

Third is the question of special training for the public service. A great many of the veterans have claims on jobs which they previously held in national, state, or local government. All of them will have preferential consideration for jobs under civil service legislation in the national government and many state and local governments. We can be sure that a great many of the returning veterans will want to move into government positions as soon as possible after discharge. If this interest can be counted on, can we not be sure that training courses, short or long, strictly professional or mixed with liberal subjects, will find takers among the returned veterans? If this is a matter that requires serious thought, the leadership in such thinking ought to come from political scientists. It may be that the Civil Service Commission, the War Manpower Commission, the Veterans' Administration, or some other national organization will advise the colleges and universities as to special training which may be desirable for the veteran (and others) who expect to enter jobs of various kinds in the national service. It is unlikely that they will offer all the advice we need on fitting men for state and local government jobs. Most of the thinking and planning on the latter must be local; it ought to be done through collaboration of faculty people and public officials.

By taking the initiative in such coöperative planning, political scientists can help to assure that veterans who enter the public service will be trained to discharge their tasks competently and with an understanding of the rôle of administrators in a democratic society.—WASHINGTON COMMITTEE OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION.

DOCTORAL DISSERTATIONS IN POLITICAL SCIENCE

IN PREPARATION AT AMERICAN UNIVERSITIES[1]

COMPILED BY DAVID FELLMAN
University of Nebraska

POLITICAL PHILOSOPHY AND PSYCHOLOGY

William M. Barr; Litt.B., Rutgers, 1928; A.M., Columbia, 1936. The Philosophy of Woodrow Wilson. *Columbia.*

Raymond Francis Cour, C. S. C.; A.B., Notre Dame, 1937; A.M., *ibid.*, 1943. Catholic Action and Politics. *Notre Dame.*

Richard Eugene Curl; A.B., Ohio State, 1939; A.M., *ibid.*, 1940. The Impact of War on Government Publicity. *Princeton.*

Jack G. Day; B.S., Ohio State; LL.B., *ibid.;* A.M., *ibid.* The Influence of Roscoe Pound on American Jurisprudence. *Ohio State.*

Karl Wolfgang Deutsch; Dr. of Law and Political Science, Prague, 1938. The Economic Factor in Nationalism; A Technique of Enquiry Applied to Some Successors of Central Europe. *Harvard.*

[1] Similar lists have been printed in the REVIEW as follows: V, 456 (1911); VI, 464 (1912); VII, 689 (1913); VIII, 488 (1914); XIV, 155 (1920); XVI, 497 (1922); XIX, 171 (1925); XX, 660 (1926); XXI, 645 (1927); XXII, 736 (1928); XXIII, 795 (1929); XXIV, 799 (1930); XXV, 798 (1931); XXVI, 769 (1932); XXVII, 680 (1933); XXVIII, 766 (1934); XXIX, 713 (1935); XXX, 811 (1936); XXXI, 772 (1937); XXXII, 796 (1938); XXXIII, 732 (1939); XXXIV, 767 (1940); XXXV, 752 (1941); XXXVI, 734 (1942); XXXVII, 706 (1943).

Items which appeared in the August, 1943, list are in general classified under the same headings in the present list, and new items have been assimilated to the 1943 classification as far as possible. In cases where classification of an item has been suggested by the institution concerned, the suggestion has been followed. Each item is listed under one classification only.

The lists printed in the REVIEW are based on information from departments giving graduate instruction in political science. Often dissertations are in progress in departments of economics, history, sociology, etc., which overlap or supplement dissertations in preparation in political science. Attention is called especially to the following lists: "Check List of Current Researches in Public Administration Reported to the Committee on Public Administration, Social Science Research Council" (mimeographed, most recent edition, January, 1943); "Doctoral Dissertations in Political Economy in Progress in American Colleges and Universities," in the *American Economic Review;* "List of Doctoral Dissertations in History Now in Progress," formerly published by the Division of Historical Research, Carnegie Institution of Washington, but since the 1938 issue as a supplement to the *American Historical Review;* and "Higher Degrees in Sociology," in the *American Journal of Sociology.* Usually one list is published each year. These are in addition to the "List of American Doctoral Dissertations Printed in 1938," the most recent of an annual series published by the Library of Congress; and Edward A. Henry's "Doctoral Dissertations Accepted by American Universities, 1942–1943," the tenth of a series beginning in 1933–34, compiled for the Association of Research Libraries.

Cletus Francis Dirksen, C. PP. S.; A.B., St. Joseph's College, Collegeville, Indiana, 1926; A.M., Catholic University, 1941. The Relation of Church and State in the United States According to Orestes Brownson. *Notre Dame.*

Dominic Elder, C. S. C.; A.B., Notre Dame, 1936; A.M., *ibid.*, 1942. Thomas Paine and His Philosophy of the Common Man. *Notre Dame.*

Harold L. Elstien; A.B., Syracuse, 1934. Democratic Tolerance of Anti-Democratic Organization. *Chicago.*

Gisbert Henry Flanz; Free School of Political Science, Prague, 1936; Dipl. Sc. Pol., *ibid.*, 1939. The Doctrine of the Separation of Powers; An Historical and Analytical Study in Political Theory and Comparative Constitutional Law. *Princeton.*

Samuel Fox; Ph.B., Chicago, 1924. Majority Rule and Minority Representation as Provided by the Electoral System of the Limited Vote. *Notre Dame.*

Stephen S. Goodspeed; A.B., California, 1936. The Attitudes of Special Interest Groups toward Germany, 1933–1939; A Study in Public Opinion. *California.*

Martin Joseph Hillenbrand; A.B., Dayton, 1937; A.M., Columbia, 1938. An Analysis of the Concept of Obligation. *Columbia.*

Byron Marshall Holmes; A.B., U.C.L.A., 1934; A.M., California, 1939. Political Nativism. *Southern California.*

Edgar Kemler; A.B., Johns Hopkins, 1936. The Deflation of American Ideals: A Study of the Response of Traditional Progressivism to the Conditions of the Fascist Era. *Harvard.*

Mary Helena Kirsten; A.B., Wisconsin, 1935. The Political Columnists. *Chicago.*

Eugene E. Koch; A.B., Pittsburgh, 1932; A.M., *ibid.*, 1935. Political Philosophy of John Selden. *Pittsburgh.*

Bernard Kronick; A.B., California, 1937. Recent American Conservative Thought, 1920–1942. *California.*

Thomas B. Larson; A.B., Nebraska, 1937; A.M., Chicago, 1938. A History of Ideas Concerning Legislatures and Representation. *Columbia.*

Luther J. Lee, Jr.; A.B., Pomona, 1933. Political Significance of Reconstruction for American Nationalism after the Civil War; A Study in American Political Thought. *California.*

Lena London; A.B., Hunter College, 1941. Sources of Ideas of Western State Constitutions, 1830–1860. *Clark.*

Herbert McClosky; A.B., University of Newark, 1940. Nationalist Theories of Federalism in the United States. *Minnesota.*

Thomas Francis Maher; A.B., St. Joseph's Seminary, Yonkers, 1936; A.M., Notre Dame, 1942. Population and Politics: The Political Aspects of Birth Control. *Notre Dame.*

Robert Earl Martin; A.B., Howard University, 1936; A.M., Harvard, 1938. Farm Marketing Quota Referenda. *Chicago.*

Milton R. Merrill; B.S., Utah State College, 1925; A.M., Columbia, 1932. The Public Career of Reed Smoot. *Columbia.*

Charles R. Nixon; A.B., Oberlin, 1939. The Concept of Civil Liberty; Its Meaning and Development in the United States. *Cornell.*

William Broderick Pendergast; A.B., Notre Dame, 1937; A.M., *ibid.*, 1938; 1ière License en Sciences Politiques et Sociales, Louvain (Belgium), 1939. American Ideas on the Limits of the Authority of Government. *Chicago.*

Lydia na Ranong; Cert., Bennett College, Sheffield, England, 1936; Dip., École Libre des Sciences Politiques, Paris, 1940; A.M., Radcliffe, 1942. Political Ideals of Modern China. *Radcliffe.*

Bruno Paul Schlesinger; Absolutorium in Law, Vienna, 1937. The Concept of Crisis in the Political Philosophy of Jacob Burckhardt. *Notre Dame.*

Willis Harlow Shapley; A.B., Chicago, 1938. General Theory of Planning. *Chicago.*

Charles Louis Smith; B.S., George Peabody College, 1927; A.M., Vanderbilt, 1930 Civil-Military Relations. *Chicago.*

David Spitz; B.S., C.C.N.Y., 1937; A.M., Columbia, 1939. Ideas in Transition; A Comparative Study of the Impact of Totalitarianism and War upon a Selected Group of Political Thinkers. *Columbia.*

James Benjamin Stalvey; A.B., Duke, 1930; A.M., *ibid.*, 1931. The Political Philosophy of Daniel DeLeon: A Study in Early American Socialism. *Illinois.*

Robert L. Stern; A.B., New York State College for Teachers, 1935. Study of Predictions of Newspaper Columnists in the Newspapers of 1934. *Syracuse.*

Harry C. Thomson; A.B., Allegheny, 1933; A.M., Harvard, 1934. Federalism in American Political Thought. *Harvard.*

William P. Tucker; A.B., Educ. College of Puget Sound, 1930; A.M., University of Washington, 1931; B.A., Librarian, *ibid.*, 1933. The Social and Political Philosophy of the Farmers' Union. *Minnesota.*

M. Henry Wells; A.B., Illinois, 1937; A.M., Louisiana State, 1939. Recent American Critics of Democracy. *Yale.*

John Higgins Williams; A.B., Washington and Lee, 1924; A.M., *ibid.*, 1928. The Rise and Decline of the Compact Theory in the United States. *North Carolina.*

George V. Wolf; Ph.D., Vienna, 1928; J.D., *ibid.*, 1930. Joseph Popper-Lynkeus as Social Philosopher and Reformer. *Yale.*

GOVERNMENT AND POLITICS OF THE UNITED STATES AND ITS DEPENDENCIES

Totton James Anderson; A.B., California, 1930; A.M., *ibid.*, 1931. The Presidential Speech as an Instrument of Foreign Policy. *Southern California.*

Benjamin Baker; B.S., C.C.N.Y., 1935; A.M., Columbia, 1940. The Packers and Stockyards Act. *Columbia.*

Hillman M. Bishop; A.B., Columbia, 1926. Rhode Island and the Federal Constitution. *Columbia.*

Helen R. Brooks; A.B., Radcliffe, 1934; Ed.M., Harvard, 1936. The Apportionment Rule of the United States Civil Service. *Radcliffe.*

Judah Cahn; B.S., N.Y.U.; A.M., Columbia, 1942. The Judicial Struggle, 1937. *Columbia.*

William D. Carey; A.B., Columbia; A.M., *ibid.*, 1941. A Study in War-Time Federalism. *Columbia.*

Lawrence H. Chamberlain; B.S., Idaho, 1930; A.M., *ibid.*, 1932. Sources of Recent Major Legislation. *Columbia.*

David Gregg Farrelly; B.S., Springfield College, 1937; A.M., Pittsburgh, 1940. The Senate Judiciary Committee. *Princeton.*

LeRoy Craig Ferguson; A.B., Miami, 1937; A.M., Ohio State, 1939. The Quakers in American Politics. *Ohio State.*

Thomas J. Graves; A.B., University of Newark, 1937; A.M., University of New York, 1939. Federal-State Coöperation in World War II. *Princeton.*

Morton M. Grodzins; A.B., Louisville, 1940; A.M., *ibid.*, 1941. Political Aspects of Japanese Evacuation. *California.*

Raymond H. Gusteson; A.B., Morningside College, 1942. Violence in Labor Relations in the Steel and Related Industries. *Syracuse.*

John D. Hall; A.B., Union, 1936; A.M., Syracuse, 1938. The Administration of U. S. Territories and Island Possessions. *Syracuse.*

Rufus G. Hall, Jr.; A.B., Texas, 1933; A.M., *ibid.*, 1935. American Imperialism in the Caribbean during the Taft-Knox Administration. *Harvard.*

Merle Kling; A.B., Washington, 1940; A.M., *ibid.*, 1941. Missouri's Attitude on Foreign Policies as Expressed by Her Congressmen. *Washington* (St. Louis).

Jerome Machlin; B.S., C.C.N.Y., 1935. A Study in Protest Politics. *Syracuse.*

Edwin M. Martin; A.B., Northwestern, 1929. Influence of Organized Economic Groups on Federal Tax and Tariff Legislation from 1921 to 1933. *Northwestern.*

F. Graham Matheson; B.S., Princeton, 1939; A.M., Pennsylvania, 1938. Political Geography of Puerto Rico. *Clark.*

Willard C. Matthias; A.B., Iowa, 1936; A.M., Minnesota, 1938. The Formation of Labor Policy under the New Deal. *Harvard.*

James Erroll Miller; A.B., Pittsburgh, 1931; A.M., Pennsylvania, 1932. The Negro in Pennsylvania Politics, with Special Reference to Philadelphia since 1932. *Pennsylvania.*

Walden Moore; A.B., Harvard, 1922. The American Navy Bill of 1916. *Columbia.*

Wallace J. Parks; A.B., Williams, 1932; LL.B., George Washington, 1937. Federal Import Control. *Columbia.*

A. Edward Patmos; A.B., N. Y. U., 1935; A.M., *ibid.*, 1936. Some Recent Attempts of Non-Political Organizations to Influence Federal Legislation. *New York University.*

William Schuhle, Jr.; A.B., Washington and Lee, 1935; A.M., 1936. Social Security as a Responsibility of Government. *Johns Hopkins.*

Ralph Scott; A.B., Williams, 1923; LL.B., Howard, 1926; A.M., Catholic University, 1939. Groups Representing Negro Interests in the National Field. *Catholic University.*

L. William Steck; A.B., Otterbein, 1937; A.M., Ohio State, 1938. The Formation of the Jeffersonian Republican Party. *Ohio State.*

Liba Harold Studley; B.S., C. C. N. Y., 1921; LL.B., Fordham, 1925; A.M., Columbia, 1929. Progress of Aviation Legislation in the United States. *Columbia.*

Norman Wengert; A.B., Wisconsin, 1938; A.M., Fletcher, 1939. The Trucking Industry and Public Policy. *Wisconsin.*

Charles Young; B.S., Brooklyn, 1934. The Rider Method of Legislation. *New York University.*

CONSTITUTIONAL AND ADMINISTRATIVE LAW IN THE UNITED STATES

Ernest F. Acheson; A.B., Washington and Jefferson, 1934; A.M., *ibid.*, 1935. The National Labor Relations Act; A Study in Law and Administration. *Johns Hopkins.*

Paul Beckett; A.B., Monmouth College, 1935; A.M., Illinois, 1938. Judicial Review of Legislative Acts in California since 1879. *U. C. L. A.*

Ross C. Beiler; A.B., Allegheny College, 1937; A.M., Iowa, 1940. The Commerce Clause and State Regulation, 1888–1910. *Iowa.*

Harold Christensen; A.B., Iowa, 1939; A.M., *ibid.*, 1940. The Concept of Liberty as Enunciated by the Supreme Court from 1937–1942. *Iowa.*

Fredryc R. Darby; A.B., Occidental College, 1934; A.M., *ibid.*, 1935. Welfare Clause of the Constitution. *California.*

Robert Burns Dishman; A.B., Missouri, 1939; A.M., *ibid.*, 1940. American Legal Commentators and the Constitution. *Princeton.*

Richard H. Ernst; A.B., Minnesota, 1933; A.M., Princeton, 1935; LL.B., Yale, 1938. The Administrative Adjudicative Technique as Used by the National Labor Relations Board. *Princeton.*

Delavan P. Evans; A.B., Occidental, 1933. The Use of the Concept of Inherent Powers by the Supreme Court of the United States. *California.*

James Edward Gerald; A.B., West Texas State Teachers College, 1927; B.J., University of Missouri, 1928; A.M., *ibid.*, 1932. The Press and the Constitution, 1932–1944. *Minnesota.*

J. Clare Heinlein; A.B., Grinnell College, 1934; LL.B., Kansas City School of Law, 1938. The Institution of the Administrative Court. *Chicago.*

Francis H. Heller; J.U.C., Vienna; LL.B., Virginia, 1941. The Supreme Court and Treaties. *Virginia.*

Samuel Hendel; LL.B., Brooklyn Law School, 1930; B.S.S., C. C. N. Y., 1936. Constitutional Doctrine of Charles Evans Hughes. *Columbia.*

Paul R. Jolles; Baccalaureat, Gymnasium of Berne, 1938; Certificat d'études françaises, Lausanne, 1939; A.M., Harvard, 1943. The Limits of Political Opposition in the Theory of Civil Liberties. *Harvard.*

William L. LaRue; A.B., Northwestern, 1933. Patents and Copyrights in American Public Law. *Princeton.*

George Lipsky; A.B., Washington (Seattle), 1938. Constitutional Powers of States Affecting Interstate Commerce. *California.*

Vera McLaren; A.B., Southern California, 1924; A.M., Northwestern, 1929. The Doctrine of Public Interest. *Northwestern.*

John Marshall Martin, Jr.; A.B., Tennessee, 1939. The United States Court of Customs and Patent Appeals. *Johns Hopkins.*

Frederic D. Ogden; A.B., Tusculum, 1938. Governmental Regulation of Foods, Drugs, and Cosmetics. *Johns Hopkins.*

Claud Henry Richards, Jr.; A.B., Texas Christian, 1938; A.M., Duke, 1940. Jehovah's Witnesses; A Study in Religious Freedom. *Duke.*

Owen Scott Stratton; A.B., Reed, 1938. State Taxation and the Commerce Clause. *Stanford.*

Charlotte Williams; A.B., Vanderbilt, 1938; A.M., *ibid.*, 1939. Mr. Justice Black and the Judicial Process. *Johns Hopkins.*

Harry O. Wilson; A.B., Harvard, 1931; A.M., *ibid.*, 1932. The Trial Examiner in the National Labor Relations Board: A Study of Quasi-Judicial Development in an Administrative Body. *Northwestern.*

AMERICAN STATE AND LOCAL GOVERNMENT AND POLITICS

Bernard L. Barnard; A.B., Kansas, 1928; A.M., *ibid.*, 1932. Bicameralism in Kansas. *American.*

Harold Bergerson; A.B., Puget Sound, 1931. Public Employee Relations in Seattle. *Chicago.*

Walter Thompson Bogart; A.B., U. C. L. A., 1930; A.M., Stanford, 1931. Glebes as a Factor in the Public Revenues of Vermont. *Stanford.*

Charlotte Cropley Brown; B.S., Vermont, 1927; A.M., Radcliffe, 1932. The Vermont Council of Censors. *Syracuse.*

Eugene C. Brownson; A.B., Washington, 1938; A.M., *ibid.*, 1940. The Administration of County Functions in the City of St. Louis. *Washington* (St. Louis).

J. Kirk Eads; A.B., Columbia, 1936; A.M., *ibid.*, 1937. Theory and Practice of State Control over the Local Unit. *Indiana.*

Samuel J. Eldersveld; A.B., Calvin College, 1938; A.M., Michigan, 1939. A Study of Urban Electoral Trends in the State of Michigan, 1930–1940. *Michigan.*

Emery Fast; A.B., Colorado, 1927; A.M., *ibid.*, 1929. A History of the California Criminal Syndicalism Law. *Stanford.*

Robert L. Fisher; A.B., Stanford, 1931; A.M., *ibid.*, 1933. The American Labor Party of New York State, 1936–1942. *Columbia.*

Mona Fletcher; B.S. in Ed., Kent State University, 1921; A.M., Chicago, 1924. Bicameralism in Ohio. *Ohio State.*

Norman G. Gill; Ph.B., Chicago, 1932. Municipal Research Bureaus; A Study of the Nation's Leading Citizen-Supported Agencies. *Chicago.* (Completed, but not previously listed.)

Roger James Hargrave; A.B., Iowa, 1936; A.M., *ibid.*, 1942. Iowa State Comptroller. *Iowa.*

Lynwood, M. Holland; A.B., Emory, 1932; A.M., *ibid.*, 1933. The Direct Primary in Georgia. *Illinois.*

Howard Yung Shun Hsu; University of Chicago, 1940; Cornell University, 1941–42. County Manager Government in the United States. *Minnesota.*

Laulette L. Irvin; A.B., Goucher, 1935; A.M., Columbia, 1935. The Suffrage Movement in Illinois. *Chicago.*

Emil Frank Jarz; A.B., Chicago, 1938. Legal and Administrative Aspects of Intermunicipal Agreements in the United States. *Chicago.*

John Paul Jones; B.A.J., Florida, 1937; A.M., Wisconsin, 1939. History of the Republican Party in Illinois since 1912. *Illinois.*

Paul Kelso; A.B. in Ed., Ball State Teachers' College, 1933; A.M., Wisconsin, 1938. Selected Chicago Civic Groups. *Ohio State.*

Bernhard O. J. Linnevold; A.B., Luther College, 1930; A.M., Colorado, 1931. Cheese and Politics. *Wisconsin.*

Mavis Andrée Mann; A.B., West Virginia, 1942; A.M., *ibid.*, 1943. The County in North Carolina as a Planning Unit. *North Carolina.*

Albert B. Martin; A.B., Muskingum, 1928; A.M., Pittsburgh, 1938. Financial Powers and Administration in Allegheny County. *Pittsburgh.*

Molly Milman; A.B., Hunter, 1935; A.M., Columbia, 1938. The Fusion Movement in New York City. *Columbia.*

Arthur Naftalin; A.B., Minnesota, 1939; A.M., *ibid.*, 1942. History of the Farmer-Labor Party in Minnesota. *Minnesota.*

William F. Nowlin; A.B., Howard, 1919; A.M., Ohio State, 1930. Legislative Investigating Committees in Ohio, 1919–1934. *Ohio State.*

Vincent E. Ostrom; A.B., U. C. L. A., 1942. A Historical Study of California Political Parties. *U. C. L. A.*

James Kimbrough Owen; A.B., Louisiana State, 1937. Local Government in Louisiana. *Princeton.*

Clifford Rader; A.B., Eastern State Teachers College (Kentucky), 1934; A.M., Kentucky, 1937. Problems of Kentucky County Government. *Kentucky.*

Glenn W. Rainey; A.B., Emory, 1928; A.M., *ibid.*, 1929. The Negro in Georgia Politics since Reconstruction. *Northwestern.*

Maurice M. Ramsey; A.B., Wayne, 1928; A.M., *ibid.*, 1933. Non-Partisan Government in Detroit, 1918–1941. *Michigan.*

Miriam Roher; A.B., Barnard, 1936; A.M., Northwestern, 1937. Public Relations Reporting by City Governments; Nature and Effectiveness. *California.*

Geddes William Rutherford; A.B., Missouri, 1913; A.M., Harvard, 1916. Metropolitan Problems of the District of Columbia. *American.*

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BOOK REVIEWS AND NOTICES

Public and Private Government. By Charles E. Merriam. (New Haven: Yale University Press. 1944. Pp. 78. $1.75.)

The title of this little volume, one might suggest, does not constrain the author's scope overmuch. But although he warns us in the opening paragraphs that there is government in heaven and in hell, as well as on earth, the discussion confines itself to the mundane sphere. Through this restricted area, however, it cuts a wide swath, without much solicitude for orthodox boundaries.

The author's thesis, if he can be said to have one, is that we should give up our habit of using the terms public and private as absolute opposites and face the fact that it is the function of every organization or association, whether public or private in form, to serve the public good to the best of its ability. Viewed in this light, such expressions as "public utility" or "private enterprise" do not help us much. Nor does the drawing of a straight line between public and private institutions of education. In the latter case, it is merely a matter of the source from which they draw their support, and in the last analysis it all comes from the people. A true differentiation should depend less on what an organization or institution is than on what it does. If it serves the common good with an equal hand and an impartial eye, it is engaged in public government, no matter by what name it may be called.

Government, therefore, is by no means carried on exclusively by those agencies which we commonly call government. A large part of it, in reality, is performed outside this sphere, as Professor Merriam shows. And the associations which do the work, he says, "are the bases of liberty, order, justice, democratic habits and practice, the bulwarks of the republic" (p. 19). Even though he recognizes the danger that they will at times disregard their responsibility to the general well-being, he is convinced that such danger is far less to be feared in a democratic community than in an absolutism. The democratic process is by adjustment and requires endless patience; but in the long run the outcome is "a higher standard of human achievement and happiness" than can ever be hoped from a régime of command and repression.

In this connection the author veers off his main course to drop a blockbuster on the old concept of sovereignty. It seems a waste of good ammunition, inasmuch as this ancient fortress has long since been blasted into ruins by earlier philosophical bombardiers. One may doubt, indeed, whether sovereignty in the Austinian sense ever existed as a reality anywhere. Today it is unthinkable, for although men in the mass will obey without resistance up to a point, this point (as the author says) "must not be too closely approached, or too often—whether dealing with an army,

or factory workers, or government employees, or even professors."

Not all the propositions set forth in this little book are new, but many of them are more cogently expressed here than they have been elsewhere. As a militant defense of the democratic processes of government, written in a lively, entertaining style, with more than occasional flashes of humor, these chapters were well worth writing, and being so, they are equally well worth reading.

WILLIAM B. MUNRO.

Pasadena, California.

The Republic; Conversations on Fundamentals. BY CHARLES A. BEARD. (New York: The Viking Press. 1943. Pp. 365. $3.00.)

Here, in these "conversations on fundamentals," the old symposium method of Plato is used to humanize and illumine the most modern instances, and the seminar is fused with the cracker-barrel. While the subject —the American Constitution, the republic based on it, and how both work —is not a new one for Beard, and a student of his writings over thirty years will find the basic theses familiar, the book is worth pondering for three reasons: first, because Beard adopts here a literary form he has not previously used; second, because he has deliberately set himself to write on "fundamentals"; third, because many of the strengths and weaknesses of the recent trends in Beard's thinking emerge more sharply here than elsewhere.

The form of the book was not an accident, but grew out of the convictions of the author. Beard thinks of the essence of democracy, not in populist terms of a mass base and majority will, but in terms of process: "The democratic process, which I prefer to characterize as the constitutional process of proposal, discussion, and adoption or rejection" (p. 327). That is what happens to the ideas in the book: they are proposed, the divergent viewpoints on them are made to confront each other, and they are adopted or rejected in whole or part. What is more fitting, for this man who is at once Hoosier and intellectual and who has sought to renew the strength of his Jeffersonian roots by spending his latter years writing and farming, than that he should present his ideas as an interchange between himself and his fellow-citizens in a town which (despite the libel lawyer's *caveat* in a note at the beginning) seems perilously similar to New Milford, Connecticut?

The intellectual setting of the book is that of the intelligent middle-class in a small town—the doctor and the doctor's wife, the lawyer, the retired senator, the union representative, the old Jeffersonian Democrat, the reactionary and liberal variants of the business man. A few of them, like Dr. and Mrs. Smythe—who carry, along with Beard, the burden of the discussions—take on the roundness of personalities whom we know and

whose minds we have explored. The rest tend to be gods from the machine, brought upon the stage to give their representative viewpoints and having no life otherwise. This is not Beard's fault so much as it is the difficulty of the medium: it has been true of almost every experiment with the dialogue of ideas. It was true even of *A Modern Symposium*, the work of so finished a literary craftsman as G. Lowes Dickinson.

As happens in novels and in plays, the characters in these dialogues are usually the author's foils, but sometimes his spokesmen: and it is not always clear when they are which. Dr. Smythe is the best foil: his scientific training makes him impatient of the slow advances that political science has made—and gives Beard a chance to show the intractable material with which it must deal. His forthright manner makes the discussion saltiest when he is talking, and the style most alive. Judging from this, I should guess that Dr. Smythe sometimes speaks, at least partially, for the author as well as for himself. When Beard speaks, his mood is almost always judicious, balanced, wise. Despite being a fellow-townsman, he remains a teacher throughout, not in the slightly nasty Socratic sense where the opposition is stripped and humbled, but in the sense of a tolerant guide who takes pains to show that the distant is related to the immediate, and that simple things are far less simple than they seem to impetuous and unreflective minds.

Despite the title, Beard's aim has been less to emulate Plato than to do something comparable to *The Federalist*. "We have," he says (p. 259), "no truly magnificent works on government comparable to *The Federalist* but adapted to our needs and dealing temperately, realistically, and insistently with all that *ought* to be done to bring our government, in a multitude of ways, closer to the ideal purposes set forth in the Preamble to the Constitution." That may well stand as Beard's target. His book is organized, therefore, partly around those purposes (We the People, A More Perfect Union and Justice, Domestic Tranquility and Common Defense, Promote the General Welfare, The Blessings of Liberty) and partly around such concepts as constitutionalism, power, and "the economic underwriting of the Constitution," which are taken from the current discussions.

This gives the book something of a split personality: it is at once a commentary on a text and an original treatise, and yet neither wholly. It suffers also in scanting aspects of the Republic which are not explicit parts of the Constitution, such as the press and radio as political institutions, and the whole new development of the administrative branch of the government. Thus also it deals well with religion from its freedom aspect, but not with religion as an institutional force in American life, as Bryce and André Siegfried sought to do. Yet with these minor faults the book is as good an introduction to American political life, for the student or layman, as we

have in our literature to-day. It has been serialized by *Life* and has thus reached into millions of American homes otherwise innocent of sustained and exacting political thinking.

But the book has also received another and more disturbing accolade: along with a few others which had been recommended for widespread Army distribution by the Council on Books in Wartime, it was recently put on the banned list by Army authorities under the act of Congress prohibiting election propaganda among soldiers. I can guess how much pain this gave Beard, and—for myself—I cry out against the injustice of it. Whatever strictures I have applied to Beard in the past, or may add in this review, I find it impossible to think of him as in any sense a political partisan or propagandist. His errors are more likely to be those of Olympianism rather than of partisanship, those of geologic time rather than the short view.

Let me give a single instance which will serve as illustration for many others. In the chapter on "Freedom of Speech and Press" (pp. 150, 151), the author poses the familiar question of why America and Britain have built up a stronger civil-liberties tradition than other nations. His answer runs in the doubtful, if suggestive, terms of protection by two oceans in one case and a Channel in the other. Then he asks why civil liberties have become more periled recently, and why they are nearly always in jeopardy. His answer runs in cosmic terms: "There seems to be in the human spirit an eternal conflict between the passion for liberty and the passion for authority." This may or may not be so: it is a long thought that men have mooted since the Greeks. But Beard omits the short-run forces: the pressures from economic power within the social system, the threats from financial aggression which play upon the vulnerable passion for authority. Since he never explains how fascism came to crush civil liberties elsewhere in the world, he misses a chance to shed light on how it might some day do the same in our Republic. Thus one often misses a dynamic sense in the book: much of it has come down to a brooding over essences.

It would take a long article to examine critically the recent trends in Beard's thinking. One might, with some precision, call them conservative. Obviously, I do not mean here that Beard has become a partisan either of the Republicans or of the National Association of Manufacturers: actually, there are more and sharper digs at the stupidities of *laissez-faire*, and at what Holmes might have called the "delusive exactness" of the separation of powers doctrine, than at their political opposites. Nor am I referring to what a superficial reading might set down as an anti-internationalist chapter on "The Republic in the World of Nations," which is actually a cry *de profundis* on a subject that has been near Beard's heart for a decade, and which comes closer to a pragmatic internationalism than appears on the surface.

I mean something different. Let me state some of Beard's examined and unexamined major premises somewhat as follows. (1) He regards our constitutional framework as adequate for the future. (I should say yes, provided we know how to use it). (2) He believes that we shall somehow stumble through. (I trust so, but doesn't this come close to "history as an act of faith"?) (3) He believes that change would be more important if it came in "our manners, morals, and instruments" than in our basic economic institutions. (I say it is terribly difficult to separate the two, and the important historical changes come in both). (4) He believes we shall have to work out our destiny primarily within our own borders, and not in the world arena. (Where two areas are interrelated and both crucial, I refuse to choose.) (5) He has grown too mellow to seek with zest either causes or remedies in human affairs. (I envy him, but disagree; we shall never know final causes or complete remedies, but we have to take hold of the handles that offer themselves).

Finally, he is caught in what I regard as the crucial intellectual dilemma of the conservative position. He believes (as Sir Henry Maine did) that the social heritage is fragile, and that we must walk warily lest we destroy it. Yet he also believes that the social and human heritage is tough, and defies most attempts to change it.

MAX LERNER.

New York City.

The Rôle of the Supreme Court in American Government and Politics, 1789–1835. By CHARLES GROVE HAINES. (Berkeley and Los Angeles: University of California Press. 1944. Pp. xiii, 679. $6.00.)

Professor Haines' *The Conflict over Judicial Powers in the United States to 1870*, published in 1909, indicated his early interest in the American judiciary and its unique powers. This was followed, in 1914, by *The American Doctrine of Judicial Supremacy*, which, revised and enlarged in 1932, remains the most authoritative treatment of the subject. The present work deals primarily with the personal beliefs and political attitudes which influenced the early justices of the Supreme Court of the United States in their decisions and opinions in cases involving governmental policy and individual rights.

Recognizing that in the writing of history, as in the administration of justice, a completely non-partizan attitude is impossible, the author frankly avows a belief in the fundamental ideals of self-government. After exhaustive research, he strives to present impartially the arguments of both sides. As the work of the Supreme Court, from the aristocratic and nationalistic viewpoints, has been adequately treated by competent historians, he aims to give more extended consideration to the critics rather than the defenders of the Court. This extensive volume clearly shows that he has faithfully adhered to both objectives.

In Part One, Professor Haines deals with the fundamental matters of "The Relation between Constitutional Law and Politics," "Political Parties and Divisions during the War and the Critical Period and Their Influence on the Process of Constitution-Making," and "The Issue of State versus National Sovereignty." Of special value is his discussion of "The Federal Constitution: Supreme Law or Political Document," "The Process of Interpretation," and "The Importance of Postulates or Assumptions in Legal Analysis and Interpretation."

Part Two, "The Supreme Court under the Federalist Régime," justifies the author's statement that "the extent to which the members of the Supreme Judiciary and the tribunal itself have participated in and have influenced the political and partisan activities of the time has, in my opinion, received inadequate consideration."

Part Three, "A Federalist Supreme Court under Republican Administrations," is of great significance. Despite the popular mandate which had placed the Republicans in control of the legislative and executive departments, the Supreme Court, under Marshall's leadership and with his process of interpretation based upon postulates and assumptions, developed the doctrine of judicial supremacy and applied it increasingly in accordance with nationalistic and conservative principles. Part Four reveals a similar situation, with increasing attacks upon the Court.

Part Five, "The Decline of the Authority and Prestige of the Supreme Court," begins with Jackson's first administration. The final chapter, "Political Phases and Implications of the Marshall era of Constitutional Interpretation," is largely a review of the relations of the Court and its members to the development of American political and economic doctrines. Marshall, despite his personal integrity, was a strong partisan, and his political and economic views inevitably influenced his judicial opinions. "Thus, he was at once a statesman and a judge. . . . Continuing the work of Washington and Hamilton, Chief Justice Marshall transformed a document essentially confederate in nature into a charter for a national union." As a strong conservative, he believed in protection of property rights, and this view is reflected in his judicial opinions. Most important of all, when the Court came under the control of Jacksonian Democracy, while some important changes were made, the constitutional structure created by Marshall was not destroyed or seriously undermined.

This volume will take the high rank of the author's earlier works. It will not be easy reading for the layman, but is indispensable for students of law, history, and political science. While it may disturb those who have venerated the Supreme Court as a tribunal which has developed our Constitution uninfluenced by personal, social, or political factors, it affords a much more realistic picture of its great achievement.

ISIDOR LOEB.

Washington University.

American Diplomacy in Action; A Series of Case Studies. By RICHARD W. VAN ALSTYNE. (Stanford University Press. 1944. Pp. xvi, 760. $5.00.)

The purpose affirmed by the author of this book is to break away from the chronological and vaguely deterministic stereotypes of diplomatic history and "vitalize" the subject "by presenting it as a series of related instances, or cases." To this end, the author submits the record of our experiences in diplomacy from 1783 to 1944 to a novel organization and critique. He divides his book into three main parts: "Security and the Monroe Doctrine" (442 pp.), "Expansion and the Concept of Manifest Destiny" (164 pp.), and "Neutrality and Isolation" (82 pp.). Each of these basic objectives of policy is introduced as a functional principle of American diplomacy, as apposite to the present-day war aims of the United States as it was to the historical circumstances that gave it origin. Each objective is then examined regionally, topically, and chronologically. For example, Part I, "Security and the Monroe Doctrine," is subdivided into five sections dealing, respectively, with continental security, middle American affairs, hemispheric security, collective security, and freedom of the seas. Each regional or topical subsection comprises from three to nine narrative chapters arranged in chronological order.

The strength of the book is its effort to examine our foreign policy as a functional part of a living organism rather than as a mass of tradition and precedent. Its weakness lies in the execution of this altogether admirable plan. Instead of "A Series of Case Studies" showing us how particular decisions of policy evolved through the various political pressure groups, governmental institutions, and personal negotiations that constitute the democratic process, the author's chapters fall all too easily into the very grooves of diplomatic history he sets out to avoid. They consist of a series of historical surveys that compete at a disadvantage with the special studies on which they are based. They are too brief to substitute individually for the writings of such topical specialists as Dexter Perkins, Tyler Dennett, and Julius Pratt, and, in the aggregate, too elaborate in methodology to rival the clarity of text, presentation, and documentation of the general studies of Bemis and Bailey.

A. WHITNEY GRISWOLD.

Yale University.

As We Go Marching. By JOHN T. FLYNN. (Garden City, N.Y.: Doubleday, Doran and Company. 1944. Pp. viii, 258. $2.00.)

As We Go Marching presents a critical analysis of the attempts to deal with economic problems in America in the light of similar attempts in the fascist nations, particularly in Italy and Germany. The author is concerned with showing the similarity of the fascist solutions for economic

ills with those solutions adopted during the Roosevelt administrations. He employs the following definition of fascism: ". . . fascism is a system of social organization which recognizes and proposes to protect the capitalist system and uses the device of public spending and debt as a means of creating national income to increase public employment." Out of this in due season arise the planned economy, dictatorship, militarism, war, and imperialism.

Anyone familiar with the writings of John T. Flynn knows that he presents an argument cogently, clearly, and convincingly. The average reader, upon completing a perusal of this book, must feel uneasy, to say the least, about the future of America. Anti-Rooseveltians will say that here are exactly and accurately put the contentions they have been trying to make all along.

The careful student of politics, acquainted with the long history of events and the complicated nature of the causes leading to fascist dictatorship, will undeniably feel that Mr. Flynn's diagnosis is all too simple. This will not, however, disturb Mr. Flynn, for he believes that professors, one and all, are people of bad judgment. As a vigorous partisan, Mr. Flynn set out to make history prove his case against the New Deal. He performs the job very cleverly. Yet he neglects the important fact that other ingredients can be found in the background of fascism than deficit spending, important as that may be. Deficit spending may be an immediate cause, but a people with a long history of freedom do not readily fall victims to the blandishments of dictatorship. True enough, every nation must be on its guard and should not take its democratic institutions for granted; in this uncertain world, no human institution is absolutely secure against the evil or misguided aims of mortal men. Long years, however, of misgovernment, of authoritarian absolutism, of the teaching of erroneous political philosophies, and of the practice of undemocratic political habits precede the coming of totalitarianism.

Mr. Flynn neglects to say why France, long accustomed to unbalanced budgets, did not succumb to fascism; why Switzerland, accustomed to granting its executive authority great discretion in the enforcement of law, did not go fascist; why the Scandinavian countries, with a long practice of state partnership in industry, social security legislation, and even a fair degree of planning, did not go fascist. These, according to Mr. Flynn, are all elements that go toward the making of fascism.

Mr. Flynn's thesis is weakened by the over-statement and the misstatement of many points regarding our own government. He should know the elemental principle of constitutional law that the Congress has not enacted legislation on "the general welfare clause," there being no such universal clause in the Constitution. He should know that, regardless of the contention in certain quarters, the congresses between the years 1933

and 1939 were not rubber-stamps, and that an objective examination of the record will prove this point. He should know that the principles of the Reorganization Bill were not advocated initially by "that man in the White House," but had been advocated by President Taft and other presidents since his time. Finally, he might be persuaded that the motives of Congress in eliminating the National Resources Planning Board were not altogether pure and heaven-blessed; surely, Mr. Flynn is realist enough to know that.

JEROME G. KERWIN.

University of Chicago.

State and Local Finance in the National Economy. By ALVIN H. HANSEN AND HARVEY S. PERLOFF. (New York: W. W. Norton and Company, Inc. 1944. Pp. vii, 310. $3.75.)

Professor Hansen's general ideas on national fiscal policy have come to be well known and widely debated. His approach to the subject was conditioned by his earlier studies of business cycles. He believes that the objective of public policy should be to eliminate the wide swings from boom to depression and back again. Put more constructively, the purpose should be to maintain high levels of employment and income under conditions that will permit of the continuous expansion of production with a consequent steady improvement in standards of living. Public authority should assume a positive responsibility in this matter and should use powers to tax, to spend, and to borrow for these ends. A public debt is not to be feared if a proper ratio or balance can be maintained between the total income of the people and the debt.

In his present work, written in collaboration with Harvey S. Perloff, he brings these ideas to bear on state and local finance. At the outset, he analyzes the position of state and local financing in wartime and in the post-war period, shows the inequalities that exist among the states with respect to their ability to provide for essential services, reveals the defects in state and local tax systems, and points out the perverse tendencies in state and local finance. This refers, of course, to the tendency of state and local governments to borrow and spend heavily in boom times when they should be paying off debt and retrenching, and then in times of depression doing what they should do in times of boom. He summarizes also the best available materials as to the modernization of local government, the establishment of larger administrative units, the re-allocation of functions, and intergovernmental coöperation. The objective that he sets is to enable state and local governments to give more service, to increase the efficiency of the economic sytem, and to develop the resources available for production.

Whatever improvements may be made along these lines, he sees that state and local governments do not have the fiscal freedom or the capacity

to achieve all that would be desirable. National aid to state and local governments will be needed. This should be devised so as to underwrite minimum service standards in all parts of the nation.

The last four chapters bring us to the heart of the matter. Here the authors outline a series of model budgets for the nation based upon an assumed national income running from 125 to 150 billion dollars per year. In the discussion they show how the taxation, expenditures, and borrowing of the national government should be adjusted to the tempo of private investment so that the national fiscal power will be used to maintain a high level of production and improvement without permitting either slumps or feverish booms. State and local financing, while obviously less important, is also outlined so as to show how it should fit into an over-all fiscal plan. Here will be found discussion of new credit measures for state and local governments, capital budgets, reserve funds, long-range public work planning and programming, and the principles of a better over-all tax structure. Students of state and local finance will get from this book a new view of the importance of their subject and of its relations to the national economy as a whole.

Professor Hansen has been under attack because of his attitude toward the public debt. He has been charged with being entirely indifferent to a continuous increase in public indebtedness. In an appendix, written as a reply to Harold G. Moulton's *The New Philosophy of Public Debt*, he quotes at length from his other writings to correct the record. Underlying this controversy is the old conflict between individualism and collectivism, between what Professor Hansen calls "traditional thinking" about public finance and "modern fiscal theory." In Professor Hansen's view, state and local expenditures that increase public services, improve the efficiency of the economic system, and raise standards of living are not unproductive. The fact that they are financed by taxation rather than by prices or charges, in his judgment, makes no essential difference.

WILLIAM ANDERSON.

University of Minnesota.

Municipalities and the Law in Action. EDITED BY CHARLES S. RHYNE. (Washington: National Institute of Municipal Law Officers. 1944. Pp. 553. $10.00.)

This volume is really the sixth "year-book" of the Institute of Municipal Law Officers under the title *Municipalities and the Law in Action*, publication of which began in 1938. In effect, it constitutes the proceedings of the 1943 War Conference of the Institute, but actually it includes much useful material only summarized at the Conference and deletes much of the useless talk which mars so many conference proceedings when reported verbatim.

With the exception of two or three general addresses which are reported and the high spots of some of the discussions, the volume consists of individual studies and reports of special committees on problems affecting cities during the second year of the war. Some of these problems, however, are inherent to local government and are of continuous concern.

Naturally, the reports and studies differ in thoroughness and worth, although probably the estimate of a reviewer will be influenced by his own particular interests. To be of value, a review should note some of the more outstanding subjects presented. As might be expected, the reports are written from a legal point of view, but not narrowly so. To sample the twenty-seven specific questions discussed, one finds: "Absentee Voting by Members of the Armed Forces in 1944 Election," "Municipal Taxation of Federally-Owned Property," "The Philadelphia Revenue and Wage Tax," "The War Labor Board Has No Constitutional Authority over City Employees," "Civil Liberty in War-Times," "The War and Municipal Bonds," "Rehabilitation of Blighted Areas as a Post-War Measure for Cities," and "Analysis of Statutes and Ordinances Establishing Post-War Reserve Funds—Municipal Experience and Legal Problems." These reports are not in the nature of generalizations, but are usually statements of specific problems, citations of pertinent court decisions, and in some instances drafts of recommended ordinances and statutes.

The report of the president of the Institute, Mr. Horace H. Edwards, city attorney of Richmond, Virginia, adds considerable value to the proceedings by listing the numerous additional reports made available to members of the Institute as routine activities, and which cover another score of problems ranging from the priority of federal over a city's lien for real estate taxes to the liability for injury to or damage to a WPA worker on a city-supervised project.

The proceedings will be of large value to local administrative officers and to certain types of civic agencies. Their usefulness to instructors in government will be confined largely to those concerned with practical aspects of public administration. For these groups, the volume affords another of the few sources to which to turn when facts are required on a problem of local government.

LENT D. UPSON.

Wayne University.

Building Regulation in New York City. By JOSEPH D. MCGOLDRICK, SEYMOUR GRAUBARD, AND RAYMOND J. HOROWITZ. (New York: The Commonwealth Fund. 1944. Pp. xv, 743. $4.50.)

Discussions of administrative law frequently revolve around the spectacular, and so generate more heat than light. Such discussions are apt to lay almost exclusive emphasis on the sins of omission, and particularly of

commission, of the federal government. The Commonwealth Fund has long refused to join the emotional excursions into the field, but has built up, step by step, an important series of studies on the work of federal and state administrative agencies. It has been concerned with the powers and processes by which certain agencies of governmental administration create and enforce their rules. Now the Fund has continued its wise course of investigation by extending its field to the administrative procedures of certain municipal organizations whose work is frequently not spectacular or controversial, but which constitute an important part of the essence of the governmental process.

The present study is concerned with the organization and operation of the agencies of government which regulate the construction and maintenance of buildings in the city of New York. The essence of the study is the degree to which the administrative agencies charged with the enforcement of the law relating to the construction and maintenance of buildings in New York participate in the actual making of that law, and the means by which such participation is carried on. The chief agencies are five in number—the Department of Housing and Building, the Fire Department, the Department of Water Supply, Gas, and Electricity, the City Planning Commission, and the Board of Standards and Appeals. Together, they form a nexus which shares in the development and enforcement of the important body of administrative law in this field which affects so many city-dwellers.

The book traces a faithful picture of the way in which the present-day administrative pattern of building regulation in New York has evolved from its past experience. The city's building laws, as so many others, have been adopted piecemeal to answer such specific needs as the protection of the city's streets from encroachment by privately owned buildings and fences, fire prevention, imposition of rudimentary sanitary requirements, the minimization of structural defects, the amelioration of slum conditions, and the improvement of housing.

The authors do not fail to see the forest for the trees, for certain general implications of the material are carefully pointed out. Not the least important of these is the realization that in this field, as in others, the distinction between legislative, judicial, and executive powers is inadequate, as the application of the power of the Board of Standards and Appeals so often shows. In fact, that Board, with its wide power to make regulations and to hold hearings in its own field of building regulation, is one of the important examples of an administrative court of last resort on questions of fact and policy. Nevertheless, in building as elsewhere the lively vitality of informal consultative procedures comes to the fore as more important than formalized judicialized procedures.

The volume emphasizes the important fact that the success of the ad-

ministrative process is influenced by the public attitude, and particularly that part of the public which is regulated, toward the aims and methods of the regulation. Administrative requirements dealing with building safety, with the improvement of living standards, and with zoning have, in general, been accepted by the public and largely by the courts, and we are entering the next era when administrative regulations will be used for an increasing degree of city planning.

In its examination of the actual operation of one important procedure and its consequences, the volume is a valuable contribution to the literature of administrative law. Its examination of the actual operation and consequences of one important administrative procedure helps to build up more background for a later synthesis from many fields which will continue to help establish criteria for a developing appraisal of the administrative process.

JANE PERRY CLARK CAREY.

Barnard College.

Debates and Proceedings of the First Constitutional Convention of West Virginia (1861–1863). EDITED BY CHARLES H. AMBLER, FRANCES HANEY ATWOOD, AND WILLIAM B. MATHEWS. (Huntington: Gentry Brothers. 1943. 3 Vols.: I, pp. viii, 104, 920; II, pp. 1183; III, pp. 888; and index, pp. 91.)

West Virginia's first constitutional convention met in the midst of the Civil War. It was a revolutionary body, called into existence by the political exigencies of the war, and it engaged in a work of dubious legality. Probably this, as much as the avowed concern for economy, led the members to oppose the publication of their proceedings. Yet a Wheeling reporter sat in the meeting taking stenographic notes, and the convention, on the eve of adjournment, authorized the transcription of the notes. Not until 1907, however, was this done. Then it was a useful exhibit in the debt adjustment suit with Virginia. Only in 1939 did the legislature authorize the state's supreme court to print and bind the debates; and even yet they are not "published." The court has neither fixed a price nor designated an agency to distribute the three bulky volumes.

Such a situation would normally create a suspicion that the members of the convention and later authorities of the war-born state had something to hide. The debates, however, do not confirm the suspicion. Assembling in the midst of war, the delegates debated minute points of governmental structure with a minimum of war-talk. They discussed slavery at some length, but they spent more time on the problem of the new state's boundaries. They debated salaries, internal improvements, education and taxation, but they spent little time discussing the revolutionary nature of their commission. They met, in regular and adjourned

sessions, for 66 days, and in the end they fashioned an instrument of government which was not substantially different from the Virginia constitution with which they were familiar.

Dr. Charles H. Ambler has written an able introduction to the volumes. He sets the convention in its historical background, analyzes the membership (which was predominantly Methodist and contained more ministers than lawyers!), summarizes the debates, and traces the congressional history of the statehood bill. He has appended, as well, a brief biographical sketch of each of the members. This part of the work bears the clear and sure mark of scholarship. The index, however, is a formalized, legalistic compilation of no value to a historian and probably of little use to a lawyer.

WILLIAM B. HESSELTINE.

University of Wisconsin.

Thomas Paine. BY HARRY HAYDEN CLARK. (New York: The American Book Company. 1944. Pp. 436.)

The Philosophy of Thomas Jefferson. BY ADRIENNE KOCH. (New York: Columbia University Press. 1943. Pp. 208. $2.50.)

These two volumes, taken together, constitute a significant addition to our knowledge of Paine and Jefferson. Professor Clark, for a long time occupied with the study of Paine, has brought together the principal writings of Paine in somewhat condensed form, and has prefaced these writings with a very useful analysis of Paine's ideas. Dr. Koch has made a very painstaking, detailed, and thorough analysis of the philosophical doctrines of the Virginia statesman, as a part of the Columbia Studies in American Culture.

Clark not only has dealt with the essential points in the general theory of Paine, but has given unusual attention to his economic ideas and the practical application of his theories to current problems. Paine's opposition to the banking and "funding" system of his time has been developed before, but Clark lays special emphasis on less commonly noticed policies such as that of social security. In his *Agrarian Justice* and in the *Rights of Man*, many of these policies, such as state aid for the poor, old age pensions, employment for the casual poor, have a modern ring. His emphasis upon the meaning of education in democracy was parallel to that of Jefferson.

Inevitably, Professor Clark, as a student of literature, has contributed an interesting chapter on the literary qualities of Paine, a matter of major importance since everyone must recognize Paine as one of the greatest, if not the very greatest, propagandist in American history. Whatever rating may be given by friend or foe to the content of Paine's

philosophy, it cannot be denied that he persuaded many persons to agree with him. His document did not have the long-range effect of Rousseau's *Social Contract* or Montesquieu's *Spirit of Laws*, but his immediate influence was greater. I am referring here, of course, to Paine's *Common Sense*, and not to his *Rights of Man* or his *Age of Reason*. For a long time Paine was buried under the weight of criticism and contempt, brought upon him in part by his unwise letter to George Washington, which Clark's objectivity requires him to publish. As one who "discovered" Paine many years ago, I am, of course, pleased to observe the increasing attention to the rôle of this very brilliant if sometimes misguided patriot.

Writing from the point of view of philosophy and in the effort to establish Jefferson as a philosopher in the orthodox sense, Dr. Koch finds the going hard at times. Thomas Jefferson was a man of very high ability, with a broad interest in the intellectual world in which he lived, the scientific and technological as well as the rational and moral world. No political leader in our American history, and perhaps none at any time, has been more genuinely and keenly interested in the growing intelligence around him, and especially in its practical application to the affairs of men. But to prick out accurately the pattern of his philosophy and ideology is not easy, owing to the scantiness of the evidence and the necessity of piecing out what are at times disconnected comments. That he commended a book, for example, is not a proof that he endorsed the positions taken by the author, as in the case of his approval of John Adams' *Discourses*. In a friendly way, he gave general praise to many, in a complimentary fashion, as one intellectual to another. The dates of Jefferson citations in Koch's work cover a long period of time; and while the dates may be correct, the influence on Jefferson must be readjusted chronologically.

The larger part of Jefferson's political ideas was developed at an early period, and greatly under the influence of Locke and of his legal studies. Locke's *Treatise* and the Declaration of Independence are very closely related in theory and sometimes in language. Of this Jefferson was fully conscious, as he stated in later years in correspondence with John Adams.

In the discussion of Jefferson's political ideas, Koch is less sophisticated and critical. It is, for example, stretching a point to call Jefferson a foe of the executive authority, or to cite him against the "bureaucrats" or as a friend of *laissez faire*—terms of another day. The author has not discussed Jefferson's elaborate planning of national resources, especially of land; but Jefferson's often neglected interest in manufactures, meeting Hamilton half-way in his later years, has been duly observed.

Both of these volumes are significant contributions to a clearer view of Jefferson and Paine, from the point of view of political theory, and deserve careful study by interpreters of these statesmen of the first period of the American Republic. Each volume contains an excellent bibliography for

which any student may well give thanks. In a welter of impressionistic literature about the Fathers, these studies dealing with broad views, but concretely and effectively, are welcome contributions to our understanding of American political ideas.

CHARLES E. MERRIAM.

University of Chicago.

Jefferson and the Press. By FRANK LUTHER MOTT. (Baton Rouge: Louisiana State University Press. 1944. Pp. 65. $1.00.)

This slim volume appears at an opportune time. Beginning with the debate over the provisions of the NRA Newspaper Code in early New Deal days, various writers and politicians have laid down a barrage of comment on the relations of the press to government. While there have been exceptions, most of the comment has been based on no historical knowledge of past struggles for the right to a free expression of opinion in printed form or any real understanding of how the concept of a free press developed. Plans, panaceas, and projects proposed by "liberals" for what they conceive to be a proper relationship between press and government have not always taken account of the study of the problem by earlier (and often more thoughtful) philosophers. Some of the "conservatives," on the other hand, have badly misused the term "freedom of the press."

There is, then, a great deal of profit in re-examining the doctrine of Thomas Jefferson, not merely to turn awe-struck to a sainted liberal, but because he possessed wisdom, stood staunchly for the democratic thesis, and preferred to ground his philosophy on understanding rather than on expediency. His voice rises from the pages of Dr. Mott's book. It is a modern voice—saner and more currently realistic than a lot of the slick "book trade" writing which has only recently rediscovered the virtues in American democratic conceptions.

Dr. Mott brings together all of Jefferson's major utterances on the press. He discusses Jefferson's attitude toward a constitutional guarantee of a free press, his patronage of party newspapers, his attitude toward libel laws and libel actions, his opposition to the Sedition Act, and, finally, his deep disappointment and chagrin over the merciless, abusive, and even scurrilous attacks made on him by opposition party newspapers and unfriendly critics.

The author reveals the inconsistencies in Jefferson's attitude toward the press. There is the famous letter to Carrington, so often quoted, and other written comments which reveal Jefferson's belief that the press is a special check on government. On the other side of the shield is the letter written to John Norvell shortly before Jefferson's retirement in which he betrays bitterness and "complete disillusion" over the behavior of newspapers.

These inconsistencies are resolved by Dr. Mott—I think to the satis-

faction of the reader. "Consistently, to the end of his life," the author says, "Jefferson maintained his testimony on the two major principles of his attitude toward the press—the essential nature of its service to the democratic system, and the necessity of its freedom in order to perform that work." Dr. Mott attributes the Norvell letter to a moment when Jefferson was smarting under some particularly painful attack from a bigoted opposition press, and he does not feel that it represents Jefferson's real concept of the newspaper's function. Even after the indecent attacks on him in the 1804 campaign, Jefferson wrote to Judge John Tyler: "The firmness with which the people have withstood the late abuses of the press, the discernment they have manifested between truth and falsehood, show that they may safely be trusted to hear everything true and false, and to form a correct judgment between them."

Unquestionably, Jefferson thought of the free press as an instrument that could keep watch on governmental authority, that would appraise the workings of administrative decrees and legislative enactments, and that would serve as a channel for the expression of popular opinion. A responsibility of this sort could never be exercised through a press dominated or controlled by the government in power, either through statutes or by more subtle means. German and Russian theorists, who regard the press as an instrument of government rather than as its critic, have won converts in this country. The converts assume that a governmental élite, untroubled by criticism, knows best how to safeguard and advance the interests of the rest of us. Jefferson did not consider that a politician in office is infallible, and, were he alive today, it is safe to assume that he would hold to his original ideology that the governing process can be effective only when critics within and outside the press are unchained.

Dr. Mott's volume is close-packed with the facts of his subject's dealings with the press and newspaper editors, as well as with all of Jefferson's relevant comment on press-governmental relations. The style is excellent. The volume is No. 2 of the Journalism Monographs published under the auspices of the Council on Research of the American Association of Schools and Departments of Journalism.

RALPH D. CASEY.

University of Minnesota.

The Development of Modern Italy. By CECIL SPRIGGE. (New Haven: Yale University Press. 1944. Pp. 216. $2.75.)

Contemporary Italy: Its Intellectual and Moral Origins. By COUNT CARLO SFORZA. (New York: E. P. Dutton and Company. 1944. Pp. xiii, 430. $3.50.)

In this year of Italy's agony appear two books on the factors and causes of that tragedy. Neither vouchsafes pre-visions, but each makes a distinc-

tive contribution toward our understanding of what has produced the present, and therefore conditions the future, of Italy.

Mr. Sprigge, as we would expect from the *Manchester Guardian* correspondent in Rome, is a careful student, trained in sound historical scholarship, with eyes open to democratic ideals, realistic in his inclusion of ideas as the weightiest of all realities. His style is compact, sometimes dense. But the unremitting attention required is effort well spent; for here is minute and accurate analyis of the many factors of Italian political life, from the miracle of the Risorgimento down to that paralytic shock which is called the March on Rome. The rise of Fascism is shown as the resultant of many opposed but combined factors, yet an episode involving much that is trifling matter of personal jealousy, ambition, and luck. Mussolini is appraised in all his phases, from anti-militarist and bolshevik to contriver of parliamentary combinations and would-be Caesar. But the chief value is to be found in the portrayal of psychological factors and political movements, as they became manifest during the half-century between Cavour's triumph and the fall of Giolitti's system. Democracy, even parliamentary liberalism, is shown to have been given only a half-hearted trial. Here are chapter and verse to authenticate what Don Sturzo used to call the "failure of the political class," the decline and fall of an English (Cavour's) system when operated by Italian politicians, and by confused spokesmen of "ideologies" such as socialism, syndicalism, and nationalism.

Count Sforza is a familiar figure to all students of political science. He began as diplomat, made himself expert on the affairs of China (as minister) and of the Near East (high commissioner in Constantinople), and became Italy's foreign minister (1919–20). Refusing Mussolini's earnest appeal (November, 1922) that he remain as ambassador in Paris, he has been for a score of years writing and lecturing against Fascism.

This book is his reminiscence of all these stirring Italian and world events—not including Count Sforza's present effort to disentangle Italy's affairs, as she is conquered from Nazidom to rule herself as one of the United Nations. It is not a systematic history. It is not his apologia. Serenity has always characterized his attitude, and it characterizes this story. He has known everybody worth knowing, and he frankly tells us what he thinks of them individually. He includes not only Italy, but all of Western civilization; not only the last forty years, but the past century and more; not only the worlds of parliament and foreign affairs, but also those of culture and of religion.

His candid characterizations are fascinating and tempt the reviewer to endless quotation from his extraordinarily keen *aperçus*. Often they are paradoxical, but always they provoke thought. He can be just to his enemies, appreciating, for example, the puritanic honesty as well as the obstinacy and blindness of Sonnino. Practically never does he anathematize: he

will not play Dante; there is wickedness in this world, but far more of weakness and stupidity. He pities Facta; he mercifully leaves nameless the childish American ambassador who fawned upon Mussolini. Without offending Catholic sensibilities, he keenly discriminates among Popes and their policies, wise and less wise, leaving no doubt, however, of his own deep-felt opposition to the temporal power and the Lateran establishment of the canon law.

In view of his generous appreciation of others' motives, it is significant that he foreshadows clearly what the daily newspapers are telling us—his declared conviction that Victor Emmanuel has made his kingship impossible for a revived Italian state. This is not a doctrinaire republicanism derived from Mazzini, but a stern condemnation of one who had made himself an accomplice of the crime of Fascism.

The author presents no plan for solution of the contemporary constitutional problem of Italy or of the world. But from hundreds of hints one perceives his view of a free world, as well as of a free Italy. His appreciation of a Croce, a Wilson, a Salvemini, a Beneš, may suffice as hints. If we must admit that he still places Giolitti (his colleague of 1919) in his own constellation of high worthies, it is his recognition that politics is only the art of the feasible. More significant is his constant emphasis on the ethical ideal as the truest guide of sound politics; also his serene faith in the common man, the cruelly neglected but heroic peasant, the townsman with his "good sense."

Here is where the main currents of these two books flow together, bearing a lesson for Italy and the world. Italy's historical life has largely been the infinitely rich and various life of her towns and regions. It was a pity that the circumstances of the Risorgimento seemed to suggest that the Piedmont constitution should be not only the cradle but also the coffin, cramping and stifling. The all-devouring sovereign state, on the peninsular and on the world scale, must give place to a régime of freedom. Hand and brain are both members, unequal in office but equally requiring interdependence; so also might be Piedmont and Calabria, Milan, Florence, and Palermo. All that the United Nations can contribute is freedom from the Tedesco Tyrant; then comes the opportunity for Rome to master herself, for all sorts and conditions of men to gain moral self-mastery, in coöperation under their self-controlling law.

HENRY R. SPENCER.

Ohio State University.

Triumph of Treason. By PIERRE COT. (Chicago and New York: Ziff-Davis Publishing Company. 1944. Pp. 432. $3.50.)

For decades to come, the mystery of the fall of France in June, 1940, with unused *matériel* in arsenals, unused tanks in the field, unexpended

energy to resist in the population, will preoccupy those who try to understand the abstruse laws governing the rise and fall of the genius of nations. To this discussion, Pierre Cot, former minister of aviation and, with Blum and Daladier, one of the "accused" of the "Riom trials," has contributed a vigorous, defense lawyer's brief, written to exculpate the Popular Front Government from bearing any major part of the responsibility for the military catastrophe. For in his *Triumph of Treason*, Cot writes: "About 40 per cent of the tanks and 60 per cent of the airplanes were never used in the war."

In a short review it is impossible to do more than indicate the range of subjects treated by M. Cot: the military organization of France; the economic organization of the nation; the origins, work, and overthrow of the Popular Front Government; the rôle of the military in the defeat; and, in particular, the status and rôle of French aviation. "This book," Cot writes frankly in his introduction, "is written on behalf of those whom the Vichy government attempted to try at Riom. It is more especially written on behalf of my friends Léon Blum and Edouard Daladier." Yet these ministers were "weak," in Cot's opinion, and they erred, in the pre-war period (more particularly Daladier) "in not understanding that they were in a revolutionary situation and in not establishing the dictatorship of the majority—the only means by which democracy could have been achieved in France at that moment."

In the valuable Appendix to this volume, Blum's historic letters to the Riom court are quoted as well as several fascist "directives" to the French press, issued by Vichy. There is, also, the "Opinion Expressed by the Council of Political Justice"—that strange body of judges whose "Opinion" prejudged the Riom "trials" before they had opened. Cot had been accused, among other derelictions, of "furnishing aviation material to the Spanish Popular Front." His answer seems slightly equivocal; for he writes: "The time has not yet come to tell the full story of the French Popular Front's work for Spain. . . . I was limited by the principle the cabinet had adopted and I had no intention of helping Nazi propaganda prove that France did not keep her pledges. . . . The decision [of the French cabinet and the London Conference on Non-Intervention] in no way prevented us from sending war planes to foreign countries whose hands were not tied. . . . Nothing prevented the king of Hejaz . . . from buying planes in France—and when I authorized the departure of planes from a French airport, the intentions and the destination of the pilot were none of my concern. I was not obliged to know whether an airplane en route to Hejaz by way of Spain was going to remain in Spain or not. . . ."

This reviewer happens to think that the London decision on non-intervention in Spain was both morally wrong and politically inept. Blum was faced with a tragic dilemma. It is clear that Cot disapproved of the Blum

cabinet's decision, yet he remained in the cabinet; he wished to be able to disprove accusations that "France was not keeping her pledges"; yet at the same time, by transparent expedients, he was sending *matériel* to Spain which, unfortunately, was not adequate. This moral legerdemain which Cot recounts, in 1944, with an almost naïve air of triumph (naïve because he so palpably failed to achieve his aim) is a curious example of the abyss between moral conviction and the ability to act effectively which paralyzed and vitiated French policy long before June, 1940.

ELEANOR KITTREDGE.

New York City.

Germany After Hitler. By PAUL HAGEN. (New York: Farrar and Rinehart, Inc. 1944. Pp. viii, 240. $2.00.)

This latest book from the pen of Paul Hagen, the research director of the American Friends of German Freedom, is a helpful contribution to the proper solution of the German problem after the war. Primarily, it is a well reasoned argument in favor of as much freedom of action for the Germans as conditions will permit. Although envisaging a period of military occupation, Mr. Hagen seems to be arguing for a plan of non-occupation or of very brief occupation—of remote rather than direct control of Germany. Consequently, he emphasizes the forces which he feels will operate toward the establishment of freedom in Germany: (1) the social energies; (2) the craving for personal and political liberty; (3) the patriotic sentiments of the people, the urge for self-determination; and (4) assistance from progressive international forces. Mr. Hagen also argues that "there are enough proven and reliable anti-Nazis in every town and in every district, who will be known locally and recognized quickly enough" (p. 130).

Although the author is at times polemical and has included in Appendix 2 an effective attack on Lord Vansittart's recently published book, he preserves a good balance and makes fair evaluations of very complicated situations. He is at his best in describing the forthcoming collapse of Germany, and in drawing useful comparisons with present developments in Italy. His explanation in the first chapter of why the Germans have been slow to develop real democratic institutions should be read by many people who seem to lack perspective when writing about the Germans.

The reviewer finds but a few points where disagreements are significant, or where the analysis is not entirely complete and convincing. Quite naturally from his background and experience, Mr. Hagen, it seems to me, is not critical enough of the shortcomings and fatal mistakes and weaknesses of German labor groups. He does explain quite penetratingly how they did not preserve German democracy when it drifted into a crisis. And yet he places almost sole reliance upon labor in his plan for a

reconstructed Germany, and insists on "social planning as against restoration of a profit economy." Granted that labor will be the greatest democratic force on which to lean in post-war Germany, it does not follow that the Social Democrats, even assuming that they can be re-energized and better led, and assuming further that the Communists will work with them, have all the answers or even most of them.

Again, in pointing out how some of the Allies aided reaction and opposed revolution in 1918, Mr. Hagen did not go on to explain why the young German Republic, when it had opportunities under Social Democratic prime ministers in both the Reich and Prussia, made the same kind of mistake in not rooting out reaction, and in stopping, or at least punishing, those who murdered German liberals and radicals.

Finally, Mr. Hagen is not very realistic in de-emphasizing Germany's eastern boundary problem, and in minimizing the Communist potential in post-war Germany. In fact, one of the few mistakes in the whole book is his statement that the Communists "during the following hectic fourteen years" did not "get more than twelve per cent of all the German votes" (p. 25.) In the September, 1930, Reichstag election, the Communists received thirteen per cent of the votes, and in November, 1932, the figure rose to 16.9 per cent. It is true that the Communists were never a real threat to the Republic, but they were always something of a millstone around its neck because of their negative attitude. A similar attitude after the present war, when the Communists most likely will be even stronger, would be a great handicap to the success of post-war German democracy.

Germany After Hitler is a shrewd, penetrating analysis of a fundamental problem. It is full of sound observations, and it should be read by all students of the German problem.

JAMES K. POLLOCK.

University of Michigan.

The Idea of Nationalism. BY HANS KOHN. (New York: The Macmillan Company. 1944. Pp. xiii, 735. $7.50.)

This volume deals with "the roots of nationalism" from ancient times until near the close of the eighteenth century and is to be followed by another covering "the growth and fulfillment of the idea" from 1789 to 1919. The author opens his work with an essay on the nature of nationalism in which he discusses the various interests, sentiments, attachments, and other considerations associated with nationalism "as we understand it." But such nationalism "is not older than the second half of the eighteenth century. Its first manifestation was in the French Revolution." Although the idea is relatively new, Mr. Kohn reviews tribalism and universalism in ancient Israel and Hellas, the universal tradition of Rome and the Middle Ages, the emerging features of nationalism during the Renaissance

and Reformation, and the rise of the Sovereign State (prince and nation) through the seventeenth century and the major part of the eighteenth century. Then the author passes to the rise of the independent United States with its universal theories of human rights and its emerging patriotism. The volume closes with two long chapters called "Stirrings in the Old World" in which the parallelism of universalism and patriotism is traced in the history of Continental countries. Nearly everywhere in this history Mr. Kohn finds the cosmopolitanism of the Enlightenment mingled with the particularism of national sentiments and ideas. In support of his text, he marshals a documentation and bibliography (pp. 579–722) of works in many languages. If a tremendous display of erudition could convince or overwhelm critics, Mr. Kohn would find no challengers anywhere.

Out of this display of erudition, which might put a Mommsen to shame, what has emerged? If any reader expects a formula like the following, he will be gravely disappointed:

Nationalism *equals* war

War *equals* evil

Therefore nationalism must and will be extirpated.

Mr. Kohn is too careful and too modest to indulge in such lines. The conclusion which his pages seem to warrant is that among various peoples at various times and amid varying circumstances nationalism and universalism have been manifested in thought and attachments; neither has been or is a monopoly of any people; pushed to extremes, nationalism, like religious fanaticism, may and does work for war and conquest; but a "depolitization of nationality is conceivable" and nationalism may pass from the world.

To formulate a full judgment on the details of this monument to indefatigable labor is beyond the competence of this reviewer, but a check has been made on one rather important point, as far as the American part is concerned. There (pp. 310–11) Mr. Kohn gives examples of Jefferson's intense devotion to the new American nation and then quotes a passage from one of Jefferson's letters to the effect that he was also univeralist, in that he "wished to keep the doors open," to make America a sanctuary for the oppressed of other lands. Mr. Kohn correctly quotes the letter. But is a single extract from a private letter (written in 1817 to George Flower relative to a settlement of English farmers in America, Bergh ed., xv, pp. 139–142) sufficient to establish the proposition that Jefferson had "no thought of exclusiveness," in view of the fact that in his published *Notes on Virginia* Jefferson expressed decided hostility to immigration from countries governed by absolute monarchs (Bergh ed., II, pp. 120 ff.) and was especially hostile to the wholesale immigration of artisans from the Old World? It is to be hoped that Mr. Kohn's selected citations of the writings of others are more carefully balanced than in this particular instance.

Since the volume purports to be in the class of studies devoted to the history of "ideas," another point seems appropriate. The book is entitled "The Idea of Nationalism." The words "nation" and "national" are relatively old in English usage. But the word "nationalism" seems to be new. The first citation of nationalism, in the political sense, given by the O. E. D. is dated 1844, although the word "nationalist" appeared as early as 1715. Therefore it seems fitting to inquire whether Mr. Kohn should not have entitled his book "A prolegomenon to the study of the idea of nationalism."

CHARLES A. BEARD.

New Milford, Conn.

Canadian-American Relations, 1875–1911. By CHARLES C. TANSILL. (New Haven: Yale University Press. 1943. Pp. xviii, 507. $3.50.)

Canada—Member of the British Commonwealth and Good Neighbor of the United States. By FREDERICK GEORGE MARCHAM. (Ithaca, N. Y.: Cornell University Press. 1943. Pp. 78. $0.40.)

Professor Tansill's volume is the most recent issue in the series of studies on "The Relations of Canada and the United States" sponsored by the Carnegie Endowment for International Peace. It takes up the story where Shippee's *Canadian-American Relations, 1849–74* left off. This volume is not a broad sweeping account of the forces and factors in the relations of the two countries during the period concerned; it is, on the contrary, confined to four topics which were the major subjects of diplomatic negotiation between Britain and the United States involving Canadian interests: the Atlantic fisheries (Chaps. I–IV), the Alaskan boundary (Chaps. V–IX), the Behring Sea fur-seal fisheries (Chaps. X–XII), and commercial union and reciprocity (Chaps. XIII–XIV). The legal aspects of the first three have been dealt with in other volumes of the series, and the last topic—as the general editor, Professor James T. Shotwell remarks (p. x)—is a twicetold story, which may account for its being treated in somewhat broader fashion than the others.

For the greater part, then, this work is essentially a diplomatic history of the negotiations which preceded and accompanied the disputes and projects relating to Canada and involving Britain and the United States. In undertaking to disentangle this story, the author has used many hitherto unexplored manuscript sources in the public archives and records at Ottawa and Washington. The result is a fairly definitive and complete narrative of these long-drawn-out negotiations among three governments.

In a detailed diplomatic history such as this, a general knowledge of the period is assumed. Indeed, the book itself is one for the specialist alone. The story is told with full documentation from the correspondence and papers of ministers, secretaries, and negotiators, explaining their official

and private opinions at the various stages of the discussions. One receives a most careful and comprehensive exposition of the considerations of the moment as they were recorded by the participants. This is, of course, one of the merits of diplomatic histories—to reveal the course of negotiations as viewed by diplomats though not understood publicly at the time. It is a weakness of some such histories, however, that they tend to imply that all the information and knowledge present to the negotiators' minds is sound and adequate. In the present book, for example, there is rarely any reference to any other source of information except at the very commencement or conclusion of the major topics. What use the author made of the judgment of posterity or of secondary sources is not clear. The concentration on diplomatic sources also tends to obscure the import of the solutions. Indeed, the provisions of the arbitral awards and agreements which finally disposed of some of the disputes are here relegated to footnotes, as if to emphasize the fact that in diplomacy the process of negotiation is more important than the results achieved. Except in the fashion in which the author has selected material from correspondence and reports, there is little that is criticial in the volume. Occasionally the misapprehensions of an ambassador are rebutted by a quotation from the other side (e.g., p. 197, note 27, when Choate had misstated the British case on the Lynn Canal), but rarely does the author take occasion to note an official view as weak in the light of other evidence (a rare example is to be found on p. 316, note 54, when a work on the Monroe Doctrine is cited against Blaine's interpretation in the Behring Sea controversy).

The period embraced by this volume, a very important one for Canada's growth of national consciousness and autonomy, is complicated by the fact that there are three parties to all or most of the negotiations—Britain, Canada, and the United States. A detailed study of this kind is of greatest value, therefore, in revealing the divergent views and interests in all stages of negotiation. Every student of Anglo-American or Canadian-American diplomacy will have to draw upon this careful study.

Professor Marcham's little pamphlet—No. 1 in the *Cornell University Curriculum Series in World History*—is intended to provide American high-school teachers with information and material on Canada for use in their classes. This purpose is accomplished in a fashion; some fifty pages pick out the high spots—over half of it pre-1867 history—and some few paragraphs deal with relations with the United States. There are fairly lengthy study questions, projects for pupils, and a short bibliography. It may properly be recommended to teachers who have no knowledge of the subject at all, and those who are better informed will find its last portion on activities, etc., useful.

H. McD. Clokie.

University of Manitoba.

A Proposed World Government. By GEORGE A. BIRDSALL. (Washington: The Shaw Press. 1944. Pp. 110. $1.50.)

The Geography of the Peace. By NICHOLAS JOHN SPYKMAN. (New York: Harcourt, Brace and Company. 1944. Pp. 61. $2.75.)

Mr. Birdsall suggests a world government modeled on the plan of the United States government. Certain nations, which he designates as "Class 1" nations, would have the right to send two senators to a World Senate. His selections would arouse opposition, as he includes as "Class 1" nations Hungary, Rumania, Bulgaria, and Thailand, while he lists as "Class 2" nations Czechoslovakia, Eire, Norway, New Zealand, Turkey, Germany, Italy, and Japan, which would have no representation in the World Senate.

The World House of Representatives would be composed of members from all "Class 1" nations, apportionment being based upon literate population. The United States would have twenty-six members, Russia sixteen, England nine, France eight, and Poland five. Smaller "Class 1" nations would have fewer representatives. Each "Class 2" nation would have one representative, who might talk but not vote. Youth would be penalized, as all members of the World Congress would have to be at least forty years old.

A World President would be elected by the World Senate for a term of ten years and would be ineligible for reëlection. A powerful World Police Force would be created and placed under the command of a chief who would have the power to "determine the size and kind of police and militia protection each nation may maintain for use in keeping order within its own boundaries." No suggestion is made as to how this powerful official would be elected or appointed. His World Police Force would be stationed at strategic places throughout the world, including Buenos Aires and Panama in the Western Hemisphere.

The book is full of impracticable suggestions. For example, when this war is over, "if any nation, including England, the United States, China, Russia, and other Allied powers and neutrals, refuses to give up its entire army and navy and coast and border forts to the World Government, the war will continue until it does" (pp. 22–23). Birdsall has a marked anti-Russian bias. Referring to a peace conference to be convened when the war is over, he states: "Stalin will send an emissary with instructions to give nothing and take everything he can get" (p. 21). He also has an anti-Roosevelt bias, as shown by such statements as, "We will have a republican form of government, in spite of Roosevelt's advisers" (p. 16), and "This plan will probably not be adopted now on account of the selfishness, egoism, and fear of three men—Stalin, Roosevelt, and Churchill" (p. 18). There are some errors of fact, such as a statement that the Paris Peace Conference awarded Danzig to Poland (p. 19).

Of a very different type is Professor Spykman's book. In clear, forceful terms he sets forth his thesis that, once the United States permits a hostile power to control Europe, and a hostile power to control the Chinese mainland, the Western Hemisphere is effectively encircled. In terms of territory, its enemies would be two and a half times larger; in terms of population, they would be ten times larger; and in terms of energy, they would be approximately equal. Were that to happen, the United States would be in a serious position. Professor Spykman's book, which appeared posthumously, is an excellent contribution to the study of American foreign policy.

ROBERT S. MCCORDOCK.

Lincoln Memorial University.

The Languages and Press of Africa. BY DUNCAN MACDOUGALD, JR. (Philadelphia: University of Pennsylvania Press. 1944. Pp. 86. $1.50.)

Colonial Policies in Africa. BY H. A. WIESCHHOFF. (Philadelphia: University of Pennsylvania Press. 1944. Pp. 138. $1.50.)

These two small volumes are Nos. 4 and 5 of a series of African Handbooks designed, presumably, to present easily accessible, pertinent information on a little-known continent. Mr. MacDougald's study fits this purpose admirably. A well-arranged compilation of data on the geographic spread and the number of speakers and literates of the most important African, European, and Asiatic languages to be found in Africa, it is truly a report of facts and figures. The last chapter lists name, place of publication, circulation, and language of African newspapers and periodicals.

By contrast, Dr. Wieschhoff's book does not seem to fit the character of a handbook. Relatively short on factual information, it is analytical and somewhat discursive rather than descriptive and methodical. "Problems of Colonial Policy in Africa" would have been a more appropriate title; and, accepted as such, the little book—Chapter II excepted—can be said to present a series of excellently argued discussions.

Chapter II poses the question "Do Dependencies Pay?" and blandly answers it in the affirmative. The author has enumerated all possible reasons supporting his contention without analyzing the other side of the balance sheet with equal diligence. Indeed, studies pursuing the opposite thesis, including such well-known books as Grover Clark's, are conspicuously absent from an otherwise well-selected bibliography. Regarding economic arguments, the author fails to distinguish clearly between a small group of investors, business men, settlers, and office-holders—for whom colonies pay—and the entire metropolitan people as taxpayers and consumers. Defense as a cost item is neglected. Some non-economic "advantages" accruing from dependencies are exaggerated. Thus, the

author argues that the possession of colonies augments international power and prestige of the imperial nation. This may be true for the United Kingdom and Japan, while Spain, Portugal, Belgium, and the Netherlands hardly reaped such a benefit. In the modern world only, the few Great Powers may perhaps be said to gain power and prestige from colonial dependencies.

The bulk of Dr. Wieschhoff's study is devoted to a discussion of the stated aims of colonial rule and the principles of colonial policies, on the one hand, and the discrepancy between these and practical accomplishment, on the other. By and large, the author's reasoning appears sound and suggests familiarity with his subject. In addition to immense difficulties arising from the complex variety of African conditions—geographical, economic, political, and cultural—he rightly attributes the discrepancy between aim and achievement to the group selfishness of white enterprise and white settlers. The same reasons, he concludes convincingly, will render any future progress inevitably slow.

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BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

The American doctrine of judicial supremacy has been attacked more convincingly, but seldom more outspokenly, than in Henry Steele Commager's series of lectures at the University of Virginia published under the title *Majority Rule and Minority Rights* (Oxford University Press, 1944, pp. 76, $1.50). The author once more testifies to his complete and unqualified acceptance of the majority principle and his distrust of all efforts to curb legislative omnipotence. "Democracy," he insists, "whether from instinct or from necessity, furnishes its own checks and balances—quite aside from such as may be provided in written constitutions" (p. 59). Judicial review is wrong in principle and dangerous in practice, because the judicial branch is largely immune from popular correction. Liberals who rejoice at judicial intervention on behalf of civil liberties are guilty of a misunderstanding that cannot fail to have very serious consequences for their cause. Professor Commager calls upon the historical record to prove his case, relying largely upon an article by Judge Edgerton for his conclusion that there is "not a single case, in a century and a half, where the Supreme Court has protected freedom of speech, press, assembly, or petition against congressional attack. . . . Congress, and not the courts, emerges as the instrument for the realization of the guarantees of the bill of rights" (p. 55). This sidesteps the issue as to the value of the courts in restraining over-zealous state legislatures. The treatment is more

in the vein of the lawyer than of the historian, with more than a touch of the pastoral—the writings of Thomas Jefferson serving as holy writ. The book would be more convincing if the argument were more restrained and less free from doubt, and if the reader were not left with the impression that the author has consciously called upon only those portions of the historical record that support his point of view. But for all of its faults—some of which may be explained by its geographic piety—it is eloquent, cogent, and forthright, and its logic is at least as sound as that of most treatises defending the thesis that the author attacks.—J. A. C. GRANT.

An objective and comprehensive study of that stormy petrel of investigating committees, the Dies Committee, has long been lacking. The first work of this character is August Raymond Ogden's *The Dies Committee* (Washington, D.C.: Murray and Heister, 1944, pp. vi, 295, $2.00). Originally submitted as a doctoral dissertation at the Catholic University of America, the volume is heavily documented and contains a useful bibliography and index. After noting the antecedents and creation of the Committee, its work from 1938 to 1943 is traced in detail. The study is narrative and historical in approach, but the author crowds in occasional incisive, analytical comments. Major emphasis is placed upon the procedures used. Some of the reports were found to have "real intrinsic worth," but "must remain suspect because of the methods and procedure used" (p. 108). The rule seems to have been, "If the Committee did not agree with the witness, then he had to be searchingly examined; if it did agree, he enjoyed some sort of immunity from cross-examination" (p. 97). The professed worth-while ends, the author contends, have not justified the means. At times (notably in 1939), the Committee reached laudable heights and achieved good results, only to lapse into its old methods and a one-man show. Representatives Dempsey and Voorhis are praised for attempting to reform the Committee. The Committee's failure to limit its scope is cogently presented. The author concludes that the Committee "is neither an ideal nor a desired means of exposing subversive activities. . . . Congress should discontinue the Dies Committee as the first step to a solution of the very difficult problem facing it" (p. 275). A joint standing committee with disinterested personnel, standardized procedure, and effective collaboration with the FBI is recommended. While the volume is excellent, further studies are needed on the relationship of Mr. Dies to the Committee, and of the latter to the Administration. Ogden criticizes the press for headlining certain accusations while playing down refutations; more can be done on this subject. Further analysis is needed also of the contents of the various reports and of the "political" relationships of Congress to the Committee.—HUGH A. BONE.

Anyone desiring a clear and adequate description of the growth of rural electrification in the United States under the planning and supervision of the REA and the 800 democratically functioning consumers' coöperatives through which it largely acts will welcome the monograph on *Public Rural Electrification* (American Council on Public Affairs, 1944, pp. viii, 184, $3.00), by Frederick W. Muller. "REA suggests a kind of *via media* between regulation-planning . . . and outright government ownership and operation." But even this is a wide departure from the old order when it is remembered that, as Frank J. Kottke puts it, "the traditional policy of the United States has been largely to leave research and development work to private enterprise, to preserve to inventors and their assignees the exclusive right for a term of years to the techniques which they develop, and to maintain competition among several concerns in each field." How this three-pronged policy has been pursued in the past, and how its dilemmas and problems have been faced, are the general queries dealt with suggestively but not exhaustively in a second monograph, issued by the same publishers under the title of *Electrical Technology and the Public Interest* (1944, pp. 200, $3.00), by Frank J. Kottke. The electrical field is chosen for this special study because of its paramount importance to the whole people in both war and peace. The author estimates that from eighty-five to ninety-five per cent of the expenditures on peace-time research are made by private enterprise, and largely by the big companies. The availability of the stimulus of patents and the resulting technological progress, with a minimum of suppression of patents, are conducive to combinations among the big competitors and the strangling of the small ones. The public antidote to the danger of monopoly takes the form of anti-trust laws and the various forms of patent-licensing. The solution is still in the experimental stage, but seems to recognize the need for several competing companies large enough to be able to carry the heavy burden and risk of large-scale research and experimentation, together with the many medium-sized and small companies to which the new patents must be made available through an open, uniform licensing system.—Arnold J. Lien.

The third edition of Claudius O. Johnson's *Government in the United States* (Thomas Y. Crowell, pp. xi, 852, $3.75) is recommended as a very usable text for American government courses taught from the so-called functional approach. The arrangement of topics is more or less the standard one for "functional" texts, but the style of writing is more interesting than in most. At the same time, details have not been sacrificed in the interest of style. This revision gives recognition to changing conditions by more detailed attention to labor and agriculture as problems of govern-

ment, by a re-examination of intergovernmental relationships, and the like. The chapter on "The United States at War" centers attention on government's most immediate problem. Deserving of particular commendation is the final chapter, "The Obligations of Citizenship." Its suggestions serve to give practical purpose to the study of American government. Liberal use is made of footnotes, rather than expecting the reader to assume that authority for statements made may be found in the lists of recommended readings. Probably no textbook ever has merited complete approval as to the list of topics chosen for discussion and the relative space assigned to each, but the book under review deserves a high rating. —CHRISTIAN L. LARSEN.

In the years of the depression, when the national government was expanding the public services to provide employment, libraries were among the local institutions which benefited. As a by-product of work relief, library facilities were extended, and librarians glimpsed some of the possibilities of augmented budgets, according to Edward Barrett Stanford in his scholarly review of *Library Extension under the WPA* (University of Chicago Press, pp. xiv, 284, $3.00). This well documented, statistically fortified, fully illustrated, rather repetitious, offset printed book is a model of thorough research from the viewpoint of the library profession. General chapters on the scope and distribution of federal funds and the organization and administration of WPA library assistance are supplemented by case studies of the projects in South Carolina and Minnesota. As an "experiment in federal aid" to libraries, the program is judged to have been deficient in administration, but very helpful in expanding library services.—JOHN ELY BRIGGS.

FOREIGN GOVERNMENT AND POLITICS

Herbert Rosinski's *The German Army* (Washington, D. C.: The Infantry Journal, 1944, pp. 215, $3.00) is a revised and considerably enlarged edition of a book published originally in 1940. The historical chapters have been taken over from the original, although for reasons of space they have been shortened to a certain extent, and a second part, dealing with the organization, ideology, and strategy of the modern German army, has been added. Among the comparatively few sources on the subject available in English, the book ranks high, both for factual information and as an analytical text. Particularly well done are the chapters on Frederick the Great and Ludendorff; the characters of Clausewitz, Moltke, and Schlieffen, however, were given more space and relief in the earlier edition. The outstanding part played by General von Seeckt in building the bridge from the imperial army to the *Reichswehr* is dealt with at length, and a vivid picture is presented of his sphinx-like person-

ality. On the other hand, political details created by and affecting the *Reichswehr* during the period of the German Republic were given more completely in the first edition. Students of military organization will greatly benefit from the author's thorough treatment of the General Staff, in which the development of the position of chief of staff to one of exaggerated power under Ludendorff and its curtailment by Seeckt will be of special interest to the expert. In the light of the various recent campaigns, the chapter on modern military thought is of particular importance; here the observer of German military propaganda will find its basic ideas explained. Considering the social prejudices prevailing in other armies, it is noteworthy that the author sees in the strong emphasis of comradeship between officers and men "one of the most powerful factors" that maintain the morale of the German army even in defeat. Colonel Joseph I. Greene has written an introduction that shows the objectivity characteristic of the professional soldier.—HEINZ GURADZE.

Requisition as a legal institution forms part both of international law and of national legal systems. As the title indicates, Maurice K. Wise's *Requisition in France and Italy* (Columbia University Press, 1944, pp. ix, 207, $2.75) limits itself to an analysis and discussion of the treatment of national private property and services by French and Italian requisitory legislation and practice of the past seventy-five years. The author, under a separate heading each for France and Italy, treats thus the power of requisition, the occasion for its exercise, its objects, the authorities empowered to requisition, the procedure followed by them, the problem of indemnity, and the jurisdictions entitled to award or to review compensations granted for the national property or services used or seized by the state. A short conclusion compares the principal points of similarity or divergence and the causes underlying French and Italian requisitory law. Two tables of relevant French and Italian legislation, a short list of selected readings, and an index complete the volume. The titles listed in the readings are either French or Italian, which indicates the previous lack of Anglo-American literature on this subject. The principal value of the present study for the general English reader or, for that matter, for military government officers, lies in the detailed information on requisition in France and Italy thus made available. However, the evolution which the institution has undergone in the countries selected in the last thirty years and the causes underlying this development also furnish an interesting comparison to the growth of executive powers anywhere during and after the first World War. Thus, the author demonstrates that both in France and Italy requisition, in general, no longer serves merely the needs of the military or, occasionally, of civilians in time of war or preparation for war, but has become also an instrumentality of social

control. The query suggests itself of what influence this development will have on requisition as an international institution, and how it will affect the litigation which undoubtedly will arise after the present conflict out of requisition as practiced now by military occupants on foreign soil. This problem, however, is properly outside the scope of the present study, which constitutes an informative and timely legal analysis of French and Italian requisitory legislation and the safeguards provided by it for the protection of private interests against the abuse of the power involved.—GEORGE MANNER.

Rixford K. Snyder's short history, *The Tariff Problem in Great Britain, 1918–1923* (Stanford University Press, pp. 168, cloth $2.75, paper $2.00), contains much semi-manufactured material which the political scientist could utilize with profit. It could be used, for example, to illustrate the psychopathology of post-war nationalism in any modern democracy; or to demonstrate what happens if adequate international institutions are not established to provide for the multilateral determination of economic policies that affect all nations; or to show the importance of wise timing, so that these institutions get firmly established before war-time solidarity among allies gives place to peace-time jealousies. It could be used also as a starting-point for a much-needed study of the working of lobbies and pressure-groups under the British parliamentary system. One merit of this history is that it points the way toward problems such as these; another is that it has extracted everything that can possibly be extracted from the eight most easily available printed sources. Its defect is that the historian's preference for the annalistic over the analytical approach still leaves the political scientist to grope his way toward the solution of the big problems that it raises.—W. HARDY WICKWAR.

Alexander Lorch's *Trends in European Social Legislation Between the Two World Wars* (Editions de la Maison Française, 1943, pp. 148), published under the auspices of the Institute of International Law, is a well documented comparative study of labor legislation in republican Germany and of social reforms in France under the Popular Front government. Following a political background sketch, three major phases of labor legislation are taken up in order: (1) recognition of collective bargaining, (2) arbitration, and (3) workers' representation in the shop. The laws and procedures pertaining to each are stated and their history and effect on the industrial relations of either country are briefly discussed. One gets a picture of a Germany more advanced in labor legislation due to her strongly organized trade-union movement, and of a France lagging behind in this type of social legislation and only fully catching up with her eastern neighbor in 1936–37. Despite the similarity

in legal institutions of the two countries, quite opposite results could be observed in some instances, for example, in the use of compulsory awards or compulsory arbitration. These differences, the author believes, reflect basic differences in national character and the sustained influence of democratic tradition in France. The student of labor relations in this country will find useful material in this little volume.—GERHARD KREBS.

INTERNATIONAL LAW AND RELATIONS

The people responsible for the program of study in American civilization at Princeton University have initiated a series of publications with *The Constitution and World Organization* (Princeton University Press, pp. xiii, 64, $1.00), by Edward S. Corwin. The purpose of the book is to inquire into the question whether anything in the American Constitution or in the principles on which the Constitution rests stands in the way of effective participation by the United States in an international organization to preserve world peace. Perhaps a more adequate statement would be that Professor Corwin takes the conventional constitutional and theoretical arguments against American participation in such an international organization and demolishes them one by one. He finds that sovereignty, which "is primarily a logical or verbal concept," is not of such regnant power as to stand in the way of the desired end. "When total war is the price of total sovereignty, the price is too high!" (p. 6.). In brief sections he likewise obliterates restrictive barriers alleged to reside in the concept of dual federalism, the principle of separation of powers, the limitations on powers of the national government in favor of private rights, and the area of freedom of action constitutionally guaranteed to the national government. He turns finally to the most difficult obstacle, that involved in the rôle of the Senate in the process of treaty-making. In a well phrased argument he deals with this highly controversial question by contending that we have developed constitutionally a procedure parallel to that of controlling international relations by treaty, namely, a procedure whereby the two houses of Congress, acting through simple majorities, authorize the President to make executive agreements as to matters in the foreign field. He finds this latter procedure "one which from the point of view of the requirements both of democracy and of sound government is the preferable route" (p. 54).—CARL BRENT SWISHER.

In *Federalism and the Problem of the Small State* (George Allen and Unwin, Ltd., 1943, pp. 125, $1.75), Sir. J. A. R. Marriott, "elder statesman" in the realm of political science and history, gathers together his observations on the subject from among a dozen of his volumes and numerous reviews and reworks them into this fresh and stimulating

essay. The product fulfills the author's intentions—"to clarify ideas on the subject," to diagnose, but not to prescribe. Designed apparently for students, the book contains little on the factual side that is not already familiar to the thoughtful political scientist who knows his history. Seven of the ten compact chapters discuss both the small state in its historic matrices and the repetitive efforts to make possible its survival. The analysis of federalism (Chap. VIII) is distinctly elementary; and it contains one microscopic error (p. 88): only 36, not 37, states are needed as the minimum for amending the American constitution. The dissection of contemporary writings on federalism in Chap. IX is neat and helpful. Though convinced that "the survival of the smaller nation-states is essential to civilization" (p. 99), the author offers no universal prescription, but many cautions. Even a confederation like the League of Nations was premature: it was "too ambitious and in too great a hurry" (p. 74). A universal, or even a European, federation is out of the question. "Regional confederations might well precede even regional federations" (p. 119). The Pan American Union is not mentioned anywhere. A Danubian, Balkan, and Baltic federation, and possibly a Rhineland Republic, might be feasible. The author advises a "step by step" process—evolution rather than precipitate fabrication. A short appended bibliography (pp. 121–123) is helpful.—HENRY REIFF.

As formerly, since 1938, the Naval War College's latest annual publication of *International Law Documents, 1941* (Government Printing Office, 1943, pp. vi, 167, $0.60) was prepared in collaboration with Professor P. S. Wild, of Harvard University. The present volume contains fifty-three documents, presented, as usual, in chronological order and covering the period from July 26, 1941, to August 1, 1942. Broadly speaking, all of the international agreements, diplomatic notes, national legislative acts, and executive orders reproduced here relate to the present war. Topically, twenty of the documents concern, in general, inter-allied assistance and affairs; twelve represent measures of national defense; nine pertain to the outbreak and conduct of war; four involve American-Japanese relations; three touch on Inter-American defense; two look to allied economic warfare; another two enunciate broad principles of post-war policy; and one announces Turkey's neutrality. It is, perhaps, difficult to single out any of these documents as being of particular significance to the international law of the present or the future. From the point of view of the development of international law, however, the documents bearing on the concept of neutrality (Nos. V, VI, VIII to XIV, XVI, XXVI, XXVIII, and XXXIII) and the statement concerning the treatment of civilian enemy aliens and prisoners of war (No. XLIV) are probably especially important. The latter document might conceivably lead to a much-needed

convention regarding the status of enemy aliens in belligerent countries and of civilian populations in occupied territories. Hitherto, all proposals for such a specialized agreement failed to bring results. From the point of view of the stability of the post-war world, document No. III, the Atlantic Charter, is, of course, especially significant. So far as the make-up of the present volume is concerned, it could, perhaps, be improved by greater care in the reproduction of documents (cf. p. 41, where an important line is omitted, and pp. 46, 72, 82, 90, and 134, where less serious misprints occur.). Similarly, a topical table of documents could profitably be added to the index. Future volumes might also resume the practice observed formerly by Professor G. G. Wilson. His notes to the documents were helpful to the student of international law. None of these errors or omissions, however, detracts from the value of the publication. As always, it constitutes an extremely handy collection of important documents relating to our foreign policy and international relations and to international law, chiefly as interpreted by the United States.—GEORGE MANNER.

A sobering analysis of the shape of demographic things to come is presented in *The Future Population of Europe and the Soviet Union: Population Projections, 1940–1970* (League of Nations, pp. 316, $2.75). This monograph, first of a series, is a coöperative project of the Office of Population Research, Princeton University, and the Economic, Financial, and Transit Department of the League of Nations, and has been prepared by Director Frank W. Notestein and a number of his associates in the Office. Assuming national boundaries as of 1937 and the orderly development of inter-war demographic trends, and making no allowance for the effects of war or of migrations, the authors present a series of projections, scientifically formulated, of the population of European countries and the U.S.S.R. at five-year intervals, 1940 to 1970. The conclusions, based on reasonable inference, but admittedly tentative, indicate that northwestern and central Europe will have ceased to grow in population by 1970, when it will already have entered upon a decline; that southern and eastern Europe will continue to grow, but at a decreasing rate; and that the Soviet Union, which has grown 55 per cent since 1900, will continue to grow much more rapidly than the rest, reaching a projected population of 251 millions in 1970—approximately three-eighths of the combined populations of Europe and the U.S.S.R. The implications of this trend, by which the demographic center of gravity moves eastward across Europe, will place heavy responsibilities of readjustment upon post-war policy-makers. Since nations "will not idly contemplate their own extinction," they may be expected to adopt measures which will adjust to, slow up, or reverse population trends unfavorable to their

interests. Western Europe, in particular, "must follow an uncharted course in adjusting a dynamic economy to an aging and perhaps declining population" (p. 173), and is faced with the broad problem "of adapting its institutions—social, economic, and political—to function in the absence of growth to which they have been adjusted, and to prove for the world that neither growth, nor size, but the efficient adaptation of people to resources is a prerequisite for human welfare and a rich culture" (p. 181). Other significant implications of these demographic trends are considered also by the authors; and numerous tables and figures and four exhaustive appendices are included.—IVAN M. STONE.

In his *Beyond Victory* (Farrar and Rinehart, 1944, pp. ix, 240, $2.50), Congressman Jerry Voorhis holds that "through all the ages man has struggled for three things: first, food and the necessities of life; second, reasonable security in these things; and third, freedom of the spirit" (p. 71). This little book is an exposition of his identification of the causes of war and the ways in which a reasonably lasting peace might be attained. There is little that is new, but the method of presentation of familiar concepts is represented by such chapter headings as "Young Men Without Hope" (the need for combatting unemployment); "For Want of Greener Pastures" (the problem of unnecessary hunger and want); "Monopolies and Cartels" (a plea for genuine economic freedom); and "Gold and the Gold Standard" (the need for an international clearing house). Harold Callender's *A Preface to Peace* (Alfred A. Knopf, 1944, pp. ix, 288, $3.00) is a résumé of British and American foreign policy, contributing substantially to the present war. Unlike Voorhis' book, it does not outline a definite plan for peace. Instead, it is a plea for international collaboration, in which the United States should play an active part rather than revert to isolationism at the end of this war. Asher Brynes' *Revolution Comes of Age* (Farrar and Rinehart, Inc., 1944, pp. xi, 271, $2.50) is one more effort, largely unsuccessful, to diagnose world conditions. Simple concepts are distorted and inflated into almost unrecognizable forms, with resulting confusion. From a reading of this book, the reviewer emerges with exhaustion and impatience that so much effort should have been devoted to composing it.—W. LEON GODSHALL.

A very useful collection of documents—official, such as excerpts from constitutions and laws, and unofficial, such as party programs, manifestoes of emigré groups, and chapters from the writings of political and cultural leaders—has been made available with the publication of *For Your Freedom and Ours* (Frederick Ungar, pp. 359, $2.50). It bears witness to the age-old Polish struggle for independence and freedom, a struggle which to many appeared as the cause of all mankind. Besides

documenting the better known phase extending from the partitions to the establishment of the Versailles Poland, the volume covers pre-partition phases as well as the struggle for "internal" freedom and social justice waged by a courageous though unsuccessful élite after the reëstablishment of the nation. The latter documents are particularly significant. While in periods of struggle for national freedom all can unite in a common cause and common ideology, once independence is achieved, long hidden differences come to the fore. Then a nation has to prove that it can establish internal freedom and justice for all its members. In this respect, the present volume is a severe indictment. Even in exile, the remnants of Poland's ruling groups have not been able to free themselves from the spirit of social injustice and—strange in a nation itself so long oppressed—intolerance vis-à-vis its own racial and national minorities. In its last part, the volume documents the renewed struggle for independence. It is one of the great political questions of our century whether sovereignty can be combined with social progress in any but the largest countries and whether progressive forces in smaller nations can avoid being crushed between the upper and nether millstones of indigenous and foreign oppression.—JOHN H. HERZ.

In the present war, both the Army and the Navy have recognized the importance of training officers and enlisted personnel in the work of conducting military government. Those who have undergone such training at Charlottesville, Columbia University, or elsewhere are aware of how scant is the literature covering the earlier experiences of the United States and the other Powers in such activities and, consequently, will welcome the account of the Archangel experience given in Leonid I. Strakhovsky's *Intervention at Archangel: The Story of Allied Intervention in North Russia, 1918–1920* (Princeton University Press, pp. vii, 336, $3.00). The volume, based both upon personal observation on the spot and upon a thorough examination of relevant materials in State and Navy Department archives, reveals with admirable clarity the interplay of conflicting ideologies, political ambition, and prestige and precedence problems, all of which contributed to making the task of the intervening and occupying authorities difficult. In its military purposes, namely, the prevention of German use of Northern Russian ports as submarine bases, as well as use of war supplies which the Bolsheviks had no time to evacuate, the author considers the intervention to have been highly successful. However, as a support for the North Russian counter-revolution, it was clearly an utter failure. Among the factors to which he attributes responsibility for this were the failure of the Allied countries to form a cohesive and purposeful Russian policy, and the absence of any mass support for the régime organized to overthrow the Bolsheviks. However, the author

places greatest stress, as a cause for failure, upon the refusal of the Allied Governments "to deal with anyone who was not a bona fide democrat," a lesson which one may suspect has been learned too well by Allied authorities charged with the conduct of military government at the present time.—CROMWELL A. RICHES.

In her *Life and Labour in Shanghai* (International Secretariat, Institute of Pacific Relations, 1944, pp. 143, $1.50), Eleanor M. Hinder tells, as her sub-title states, of "a decade of labour and social administration in the International Settlement." The book is a straightforward exposition of the difficulties inherent in bringing social progress to the masses when the agencies which attempt the task are without legal authorization. The Shanghai Municipal Council did not have the power (nor was it allowed to use fully what power it might have had) to set up new regulations governing the life and work of those who lived in the Settlement. Consequently, the Division over which Miss Hinder presided had to act through persuasion and bluff. Her study shows that those who want to act fairly will do so, while those who do not must be coerced into considering public welfare. Without legal means of controlling recalcitrant individuals, social progress is blocked. Many proponents in the United States of the use of moral suasion in place of governmental controls would do well to read the facts here portrayed; for while progress was remarkable, it was still too slow to meet the needs of human misery. Miss Hinder sees as the bright spot in the future the fact that when the Chinese government gains control of the city after the defeat of Japan, it will probably build on the foundations laid through the devoted services of the staff, both Chinese and foreign, of the Industrial and Social Division whose work has here been outlined. Miss Hinder has made a contribution to the story of man's long struggle to improve living conditions for all.—ANDREW E. NUQUIST.

The seasoned British war correspondent, G. Ward Price, has presented in *Giraud and the African Scene* (Macmillan Co., pp. xi, 282, $3.00) not only a characterization of the renowned French military figure, General Henri Giraud, but also an extended review of his relations with General de Gaulle and the French Committee of National Liberation in Algiers. A sketch of Giraud's early military career in Morocco and his dramatic escape from the German prison of Koenigstein is followed by a narrative which covers the period from the Allied landings in North Africa through November, 1943, when Giraud resigned his position as co-president of the French Committee. Having developed the contrasting personalities of the two men, the author points out that equally important as an explanation of the differences of opinion which manifested themselves between

Giraud and de Gaulle is the formalist character of the French mind. Faced with a similar problem of provisional government organization, Mr. Price maintains, British or Americans would proceed by the empirical method, whereas Frenchmen prefer that any such scheme be made operative only after it is fully outlined in every detail. For this reason, the divisions which arose in Algiers are important, foreshadowing similar differences likely to occur in France upon the liberation of that country. The author concludes that they might have been materially lessened had an arrangement been achieved in Algiers to utilize the great abilities of General Giraud.—GRANT S. MCCLELLAN.

No satisfactory study interpreting characteristic attitudes of the Australian people on issues arising from the war and the peace has hitherto been available to serious American readers. The publication of *Australia and the Pacific* (Princeton University Press, pp. x, 204, $2.50) is sponsored by the International Secretariat of the Institute of Pacific Relations in the belief that it will fill the need for such a study. The volume is a symposium by members of the Australian Institute of International Affairs for presentation at the Mont Tremblant conference in December, 1942. The papers were prepared by Australians for foreign consumption and were designed to set forth normal attitudes and beliefs of the mass of their fellow-countrymen. The first essay is a penetrating analysis of Australia's position in the British Commonwealth by Professor Bailey, of the University of Melbourne. He finds that although British defeats in Southeast Asia were followed by the lowering of British prestige in Australia, they will lead to no permanent weakening of imperial ties. In another essay, Professor Duncan, of the University of Sydney, argues the essential soundness of the White Australia policy. The volume contains much evidence that in Australia, as elsewhere, geographic factors are potent influences in conditioning what people think.—RALPH A. NOREM.

In *Food for Post-war Europe: How Much and What?* (Food Research Institute, Stanford University, 1944, pp. 100, $0.50), Mr. M. K. Bennett presents a careful and provocative discussion of one of the world's most urgent problems. As he recognizes, the most accurate part of his pamphlet is the analysis of pre-war Europe's food habits and supplies and of some of the changes resulting from the war. His thesis is that the peoples of continental Europe are much better supplied with food than authorities on the subject have indicated. Doubtless there has been much hasty generalization on this score; but one wonders whether Mr. Bennett has not gone too far in the other direction. Food consumption in western Europe, he declares, is not more than a tenth less than it was before the war; no millions of people are in dire need. Coming to estimates of the

amounts to be imported during the first post-war year, he suggests a total of thirty-two to thirty-seven million metric tons of food and feed. This compares with a pre-war total of about forty million tons, approximately half of which was feed.—G. LEIGHTON LAFUZE.

International Police Force (*The Reference Shelf*, Vol. 17, No. 2, H. W. Wilson Co., 1944, 253 pp., $1.25), compiled by Julia E. Johnsen, gives some conception of the extent and variety of interest in the problem of an enforced and enforceable peace. Miss Johnsen, who has compiled nearly all recent issues of *The Reference Shelf*, has divided this book into three parts, namely, "General Discussion," "The Case for an International Police Force," and "The Case Against Reliance on International Force." She has assembled thirty-six articles from a variety of sources—from journals such as the *American Journal of International Law* and the *American Political Science Review*, from magazines such as *Fortune*, the *New Republic* and the *Christian Century*, and finally from reports of committees established to study peace organization. Most of the papers reprinted in the volume were written by scholars who deal with fundamentals and avoid romanticism, and the articles are supplemented by a lengthy, well ordered bibliography. This balanced anthology is useful for speakers, debaters, and—I should add—writers of term papers.—GARLAND DOWNUM.

POLITICAL THEORY AND MISCELLANEOUS

There is a certain timeliness in the appearance of *Restoration Puritanism—A Study in the Growth of English Liberty* (University of North Carolina Press, 1944, pp. viii, 129, $2.50), by Harry Grant Plum. The aim is the highly laudable one of coördinating what the author sees as the "many splendid specialized studies" that have been made of the period and the thought of sixteenth and seventeenth century England—researches such as bear upon the meaning of Puritanism as a force in the growth of the common law, as an expression of the Renaissance as well as of the Reformation in European history, and as a main source of the individual personality according to the modern, Western ideal. Noncomformity has had a somewhat larger part in the growth of English liberty than has been commonly recognized by the historians of English freedom. Through the endurance of persecution and suffering, the Puritan, whether as Presbyterian or otherwise, came to represent a deepening of character, and despite some vagaries to the contrary, on the whole, an acceptance of the liberty of conscience understood as an equation with the principle of toleration. It is perhaps true, as the author would agree with another specialist in this period, J.W. Brady in his *England Before and After Wesley*, that the principal content of the modern English-speaking heritage is more that of a spiritual and cultural than of a political or economic achievement, and that the Evangelical Revival, "which was the heir of Puritanism," has had

much to do with the sustaining of free institutions in that world. These facts bear emphasis in present days. It is to be regretted that they have not been marshalled, in this readable, documented, and otherwise scholarly study, with a somewhat more incisive synthesis.—WALTER E. SANDELIUS.

Mr. William Diamond's study, *The Economic Thought of Woodrow Wilson* (Johns Hopkins Press, 1944, pp. 210, $2.00 paper, $2.50 cloth), is especially opportune at this time when statesmen and peoples are again wrestling with the problems of world reconstruction and reorganization after an epochal war. While, as its title indicates, the book is concerned primarily with the economic thought of Wilson, the political constantly injects itself, to occupy almost if not quite the primary position, inasmuch as, as the author observes, "he [Wilson] was interested above all in questions of politics, the distribution of power, sovereignty, the sanctions of law, and the functions of government rather than in how men make their living and how wealth is created and distributed." The study follows the actual development of Wilson's economic thought, which is characterized as "never systematic" and concerned always with "policy rather than analysis," from his advocacy of *laissez-faire* economics, through the period of hesitating support of a very limited governmental action, to his program for the "New Freedom" of about 1910, involving positive action on the part of government. For the accomplishment of economic reform, Wilson believed the reform of governmental machinery essential, and here he favored always the British cabinet system, with strong executive leadership. In the field of foreign affairs in peace and in war, though economic considerations were important to Wilson, political and humanitarian considerations proved paramount. His advocacy of a League of Nations was based eventually on the need he recognized for a "reign of law based upon the consent of the governed and sustained by the organized opinion of mankind," rather than directly on economic considerations as such. That the League of Nations as established reflected in its insistence on the preservation of national sovereignty a "disappearing" world rather than the true twentieth-century world constituted, both economically and politically, its tragic weakness. The writer had access, by Mrs. Wilson's permission, to the manuscript collection of Woodrow Wilson's papers deposited in the Library of Congress; and the personality of Wilson, in its greatness and its weakness, pervades the book—ELLEN DEBORAH ELLIS.

Frank L. Mott. the distinguished dean of the School of Journalism of the University of Missouri, has edited a well-thought-out symposium on *Journalism in Wartime* (American Council on Public Affairs, 1944, pp.

216, $2.50 paper, $3.00 cloth). Thirty-two men, active in publishing, editorial, and reporting capacities, have contributed as many short papers on problems of present-day journalism. There are nine sections, dealing with a wide coverage of topics of timely interest to the student of the American press. The general picture of the newspapers in the war is examined first. Analyses are made of the effectiveness of voluntary censorship and the rôle of the press in the maintenance of morale. There is a thoughtful article by Gardner Cowles, Jr., on the newspaper as a focus of institutions in a democracy. Part II deals with censorship, and Byron Price's paper on the subject inspires confidence in him and his office. The late Raymond Clapper is represented with a critical study of the censorship of dispatches going abroad. The third part is on news reporting of the battle fronts. Significantly enough, in their quest for news, the correspondents' corps has suffered proportionately heavier casualties than other branches of the armed services. Ralph H. Turner has an excellent account of the rôle of the picture reporter, and the wire and radio transmission of pictures. Part IV is chiefly a study of Latin-American journalism and "good-neighbor" promotion. Part V is devoted to Washington news. Part VI is concerned with such specialized fields as radio, public opinion polls, books, and advertising. To this section H. V. Kaltenborn and George Gallup have contributed stimulating papers. The seventh part takes up the manpower situation and the problems of the small-town paper. In two concluding sections, the public and the press and post-war reconstruction are examined. Kent Cooper has a suggestive essay on "Newspaper Statesmanship for Peace," calling on the American press to take an active part in shaping the post-war world. Unfortunately, the papers are not all of equal quality. Some of the contributors' generalizations and conclusions are open to serious question. Certain persistent current issues in American journalism, such as the divisive tendencies of some of the newspaper chains, are not even mentioned. An index would have enhanced the book's usefulness. There are all too many typographical errors. A topical heading on "Hemisphere Solidarity," listed separately in the volume, is not so listed in the table of contents. On the whole, however, this is a useful and worth-while book.

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RECENT PUBLICATIONS OF POLITICAL INTEREST

BOOKS AND PERIODICALS

MULFORD Q. SIBLEY
AND
MARJORIE H. SIBLEY
University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

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